



Local Government Council

**Wednesday, April 5, 2006
1:00 p.m.
404 House Office Building**

SECOND REVISED

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Local Government Council

Start Date and Time: Wednesday, April 05, 2006 01:00 pm
End Date and Time: Wednesday, April 05, 2006 03:00 pm
Location: 404 HOB
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 431 CS Electric Transmission and Distribution by Littlefield
HB 495 Baker County by Bean
HB 917 CS Property Taxes by Needelman
HB 959 CS Motor Vehicle Safety Pilot Program by Roberson
HB 1161 Okeechobee County by Macheek
HB 1165 CS Florida Retirement System by Barreiro
HB 1245 North Broward Hospital District, Broward County by Sobel
HB 1251 CS Firefighter and Municipal Police Pensions by Davis, D.
HB 1413 Argyle Fire District, Walton County by Brown
HB 1443 CS Construction Lien Law by Russell
HB 1483 Grove Community District, Okeechobee County by Attkisson
HB 1497 Sunshine Water Control District, Broward County by Sobel
HB 1531 West Palm Beach Water Catchment Area, Palm Beach County by Brandenburg
HB 1559 Brevard County by Poppell
HB 1585 Broward County by Sobel
HB 1629 Gainesville-Alachua County Regional Airport Authority by Jennings
HB 1631 Village of North Palm Beach, Palm Beach County by Domino
HB 1633 Alachua County Housing Authority by Cretul

NOTICE FINALIZED on 04/03/2006 16:12 by ADEYEMO.MARTHA

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 431 CS

Local Government Land Development Regulation

SPONSOR(S): Littlefield

TIED BILLS:

IDEN./SIM. BILLS: SB 980

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|-----------------|------------|----------------|
| 1) Utilities & Telecommunications Committee | 14 Y, 1 N, w/CS | Cater | Holt |
| 2) Growth Management Committee | 7 Y, 3 N, w/CS | Strickland | Grayson |
| 3) Local Government Council | | Camechis | Hamby |
| 4) Commerce Council | | | |
| 5) | | | |

SUMMARY ANALYSIS

The zoning districts for electrical substation siting are determined by individual local governments. As a result, varying regulations for substation siting have been established. Currently, electrical substations for distribution lines are sited as a special use or a conditional use through the local government planning and zoning processes. Likewise, land development regulations and ordinances for vegetation maintenance vary among local governments.

HB 431 w/CS creates ss. 163.3208, 163.3209, and 186.0201, F.S., to provide a statewide process governing the siting of electric substations and maintenance of right-of-ways for electrical transmission or distribution lines. The bill provides a definition of "distribution electric substations," to which this bill applies. The bill also provides consistency among the regulations for substation siting and in the vegetation management within electric power line rights-of-way. The bill additionally establishes a role for utilities to submit their five-year plans for siting substations and to have that advisory information included in the regional planning councils' annual reports.

Generally, the bill establishes new substations as a permissible use in all land use categories and zoning districts within a utility's service territory. If a local government does not adopt reasonable standards for setback, landscaping, buffering, or screening substations, provisions are provided in the bill for default standards. The bill also provides a timeframe for a local government to grant or deny an application for an electrical substation, or the application is deemed approved. The bill further provides for a waiver of timeframes under certain circumstances.

The bill prohibits local governments from requiring permits or other approvals for vegetation maintenance in an established electrical transmission or distribution line right-of-way, but requires the utility to provide the local government with five days advance notice before conducting vegetation management activities. These activities must conform to standards established by the American National Standards Institute (ANSI) and must be supervised by qualified utility personnel, licensed contractors under the utility's control, or certified arborists. Further, the bill specifies vegetation height limits within an established right-of-way.

The bill clarifies a reference to "department" to expressly provide that Regional Planning Councils are to submit annual reports to the state land planning agency, the Department of Community Affairs.

The bill appears to have a minimal fiscal impact on individual local governments due to the loss of tree trimming permit fees paid by electric utilities.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill creates statewide procedures governing the siting of electric substations and maintenance of right-of-ways for electrical transmission or distribution lines to replace individual local government procedures. The bill limits the authority of local governments to enact regulations governing the siting of electric substations and right-of-way maintenance. The bill provides default requirements in case the local government does not adopt “reasonable” standards for substation siting. The bill provides that a local government may not require permits or other approval for vegetation management and tree trimming within an electric utility’s established right-of-way, and provides minimum standards for vegetation maintenance by electric utilities.

Maintain Public Security: The bill may increase reliability of electric services by making electrical substations permittable in all land use categories and zoning districts, thereby placing them closer to the loads they serve, and by making it easier for electric utilities to manage intrusive vegetation within their rights-of-way.

B. EFFECT OF PROPOSED CHANGES:

Background

Comprehensive Planning and Zoning

The Local Government Comprehensive Planning and Land Development Regulation Act, ss. 163.3161 – 163.3217, F.S., requires each local government to plan for future development and growth through the adoption and amendment of comprehensive plans. Local governments have broad constitutional and statutory powers to plan for and regulate land use. A local government’s comprehensive plan and land use classifications dictate the allowable land uses for each parcel.

Each local government is required to adopt and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.¹ Section 163.3164(23), F.S., defines the term “land development regulations” as “ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, . . .” A substantially affected person, as defined in ch. 120, F.S., may challenge a land development regulation on the basis that it is inconsistent with the local government’s comprehensive plan.² Citizens have standing to enforce a local comprehensive plan through challenging the consistency of a development order with that plan.³

Electrical Power Plant and Transmission Line Siting

Part II of ch. 403, F.S., governs electrical power plant and transmission line siting, and establishes a process for applying for electrical power plant site certification with the Department of Environmental Protection (DEP). Within 90 days after DEP receives a complete application, a designated administrative law judge holds a land use hearing in the county of the proposed site.⁴ The sole issue for determination at the hearing is whether the proposed site is consistent, and in compliance, with the jurisdiction’s existing land use plan and zoning ordinances.⁵ For purposes of this application process,

¹ s. 163.3202(1), Fla. Stat. (2005).

² s. 163.3213, Fla. Stat. (2005).

³ s. 163.3215, Fla. Stat. (2005).

⁴ s. 403.508(1), Fla. Stat. (2005).

⁵ s. 403.508(2), Fla. Stat. (2005).

an associated transmission line may include any proposed terminal or intermediate substations or substation expansions at the applicant's option.⁶

Electrical substations for distribution lines are typically sited as a special use or conditional use through the local government planning and zoning process. The terms "special use" or "conditional use" refer to those land uses that are not permitted outright under a local government's zoning code, but may be approved by the zoning board.

Vegetation Management and Tree Trimming in a Utility Right-of-Way

Based on a compilation of the 2004 Electric Reliability Reports⁷ submitted by the investor-owned electric utilities, 17 percent of all electrical outages are vegetation related, making it second only to equipment failures. Moreover, this statistic excludes events such as hurricanes and tornados since, pursuant to Rule 25-6.0455(2), F.A.C., outages related to these events may be excluded from the report.

In order to avoid tree-related outages, the electric utilities have established vegetation management plans. Depending on the species of tree, the management plan will establish a schedule and an allowable distance for trimming. Vegetation management may also include the removal of nuisance trees, the use of growth retardants, and selective directional trimming to maintain a balanced canopy. There are national standards for tree trimming that have been developed by the International Society of Arboriculture and the National Arborist Association. A primary vegetation management concern is that fast-growing invasive species can make contact with facilities in rights-of-way and contribute to power outages.

Local governments often have tree ordinances that specify the species that must be used in a given area depending on the land use. Some local governments require a permit prior to trimming certain trees. Electric utility providers may be subject to these tree ordinances or permit requirements.

Regional Planning Councils' Annual Report

Florida has 11 regional planning councils that serve as a link between the state and local governments that share mutual resources, characteristics, and issues within an area. Each regional planning council includes members from counties and municipalities located in the region's planning district and gubernatorial appointees. Section 186.513, F.S., requires each regional planning council to provide an annual report on its activities to the department⁸ and the local general-purpose governments within its jurisdiction. Interested persons may also obtain a copy of the report for a fee.

EFFECT OF PROPOSED CHANGES

Section 1. Creates s. 163. 3208, F.S., relating to Electric Substation Siting

The bill creates s. 163.3208, F.S., to provide a uniform, statewide process applicable to siting distribution electric substations⁹ and maintenance of vegetation surrounding electric substations. Local government regulations and processes that are inconsistent with the procedures provided for in this bill may not be applicable. The term "distribution electric substation" is defined as an "electrical substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid though one or more distribution lines less than 69 kilovolts in size."

⁶ s. 403.503(12), Fla. Stat. (2005).

⁷ The 2005 reports are due to be filed early March 2006.

⁸ Existing law does not identify to which "department" the regional planning councils are directed to provide their annual report. Historically, the term "department" was identified as the Department of Community Affairs [See s. 160.03(6), F.S. (1980), which revisers changed to s. 160.003, F.S. (See Table of Section Changes By 1980 Legislative Sessions)]. The sections comprising former chapter 160 were transferred to chapter 186 by the editors incident to compiling the 1984 supplement to the Florida Statutes 1983. Then, ch. 84-257, s. 18, L.O.F., deleted s. 186.503(6), F.S., which provided: "'Department' means the department of community affairs."

⁹ Electric utilities use substations to "step-down" voltage so it is usable by end users.

This new section states that it is the Legislature's intent to maintain, encourage, and ensure adequate and reliable electric infrastructure in the state, and that it is essential for electric infrastructure to be constructed and maintained in various locations to ensure efficient and reliable delivery of electric service. The bill further finds that electric infrastructure should be constructed, to the maximum extent practicable, to achieve compatibility with adjacent and surrounding land uses and that the criteria included in this section are intended to balance the need for electricity with land use compatibility.

The section limits local governments' authority to enact regulations regarding substation siting by authorizing the adoption and enforcement of "reasonable land development regulations for new distribution electric substations addressing only setback, landscaping, buffering, screening, lighting, and other aesthetic compatibility-based standards." Local governments may not require vegetated buffers or screening beneath aerial access points to the substation equipment to have a mature height in excess of 14 feet.

The section provides that, within a utility service territory, new substation siting is a permissible use in all land use categories in the applicable comprehensive plan and zoning districts. An exception is provided for new substation siting in areas designated as preservation, conservation, or historic preservation on future a land use map or by ordinance. If a local government has not adopted "reasonable" standards for new substation siting in accordance with this section, default standards are provided as follows:

- *Nonresidential Areas* – The new substation must comply with the same setback and buffer criteria for similar uses in that district.
- *Residential Areas* -- Unless the local government adopts a lesser setback or landscape requirement, a setback of up to 100 feet between the property boundary of the substation and permanent equipment structures must be maintained as follows:
 - *Setbacks between 50 and 100 feet* – A green-space must be formed by installing native landscaping material with a security fence around the equipment.
 - *Setbacks of less than 50 feet* – An eight foot buffer wall or eight foot fence with native landscaping must be installed around the substation.

The section provides that if a proposed electric substation is consistent with the local government's applicable setback, landscaping, buffering, screening, and other aesthetic compatibility-based standards, an application for siting the substation must be approved. Standards for substation siting adopted after the effective date of this bill are not applicable to applications that were submitted prior to the local government's notice of adoption hearing.

If a local government has adopted substation siting standards within any land use category or zoning district, the local government must grant or deny a properly completed application within 90 days after the application is declared complete.¹⁰ The application review process does not, however, address the situation whereby an applicant is not compliant with applicable federal or state laws or regulations, or applicable local land development regulations or building codes. If the local government fails to grant or deny a properly completed application within 90 days, the application is deemed automatically approved, and without penalty or interference, construction may proceed consistent with the application.

The section establishes time frames for determining whether an application for siting a substation is complete as follows:

- The local government must notify the permit applicant within 30 days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and submitted.

¹⁰ Currently, there are varying timeframes for this process.

- Further determination of completeness must be provided to the applicant within 15 days after the local government receives additional information; however, such determination is not considered approval of the application.

This section also provides that the timeframes may be waived if voluntarily agreed to by the utility applicant and the local government; however, a one-time waiver may be required by the local government in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the local government. A local government may establish a reasonable timeframe by which the required information to cure an application deficiency must be provided or the application will be considered withdrawn or closed.

Section 2. Creates s. 163.3209, F.S., relating to Right-of-Way Maintenance

Currently, ss. 337.401-337.404, F.S., provide that the Department of Transportation and local governmental entities with jurisdiction and control of public roads or publicly owned rail corridors may prescribe and enforce reasonable rules or regulations regarding the placing and maintaining along, across, or on any road or publicly owned rail corridors, under their respective jurisdictions, any electric transmission, telephone, telegraph, or other communications services lines; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures hereinafter referred to as the "utility." Currently, the majority of local governments require utilities to obtain a permit each time routine vegetation maintenance is conducted in any established electric utility right-of-way.

This bill creates s. 163.3209, F.S., providing that after a right-of-way for an electrical transmission or distribution line has been established, a local government may not require any permits or other approvals for vegetation maintenance, tree pruning, or trimming within that right-of-way. This section defines the term "vegetation maintenance and tree pruning or trimming" as the "mowing of vegetation within the right-of-way, and selective removal of tree branches that extend within the right-of-way." This section requires a utility to provide five business days advance notice to the local government prior to conducting vegetation maintenance activities within a right-of-way. An exception applies for emergencies, service restoration, avoidance of imminent vegetation caused outage, or when performed at the request of the property owner adjacent to the right-of-way, provided the owner has approval of the local government if required.

Local governments are authorized to request a meeting with a utility provider to discuss the utility's vegetation-maintenance plan, including the utility's trimming specifications and maintenance practices. In addition, vegetation maintenance performed by utilities must conform to ANSI¹¹ standards, and vegetation management activities must be supervised by qualified utility personnel, licensed contractors under the utility's control, or certified arborists. Consistent with the height provision in Section 1 of the bill, a local government may not adopt an ordinance or land development regulation that requires the planting of a tree or other vegetation in an established right-of-way that achieves a height greater than 14 feet or intrudes from the side closer than the clearance distance specified in referenced standards.

The section explicitly notes that it does not supersede or nullify the terms of specific franchise agreements between an electric utility and a local government and must not be construed to limit a local government's franchising authority. In addition, this section does not supersede local government ordinances or regulations governing pruning, trimming, or removal of specimen trees or historical trees, as defined in a local government's ordinances or regulations, or trees within canopy road protection areas. This section does not apply if a local government has adopted a written plan, with concurrence from the applicable utility provider, specifically for vegetation maintenance, tree pruning, tree removal, and tree trimming within established rights-of-way.

Section 3. Creates s. 186.0201, F.S., relating to Electrical Substation Planning

This new section requires each electric utility to annually notify the local regional planning council, each June 1 beginning the year after the effective date of this bill, of the utility's current plans to site electrical substations, over a five year period, within the local government jurisdictions contained in each region. The notification must identify whether each electric substation planned within a general area is a distribution or transmission electric substation, include a listing of the proposed substations' site acreage needs and anticipated capacity, and include maps showing general locations of the planned electric substations. The information is advisory only, must be included in the regional planning council's annual report prepared pursuant to s. 186.513, F.S., and must be supplied directly to local governments requesting the information.

Section 4. Amends s. 186.513, F.S., relating to Reports of Regional Planning Councils

Currently, s. 186.513, F.S., requires the regional planning councils to submit an annual report to "the department" and the local general purpose governments within its boundaries; however, current law does not identify the specific "department" to which the regional planning councils must provide the annual report.¹²

The bill amends s. 186.513, F.S., to replace the word "department" with "state land planning agency as defined in s. 163.3164(20), F.S." The state land planning agency is defined as the Department of Community Affairs, which is the agency to which the reports have historically been submitted.

Section 5. Provides that nothing in this part is intended to supersede the provisions of ch. 403, pt. II, F.S., The Electrical Power Plant Siting Act, which is administered by the Department of Environmental Protection.

C. SECTION DIRECTORY:

- Section 1. Creates s. 163.3208, F.S., relating to electrical substation approval process.
- Section 2. Creates s. 163.3209, F.S., relating to electrical transmission and distribution line right-of-way maintenance.
- Section 3. Creates s. 186.0201, F.S., relating to electrical substation planning.
- Section 4. Amends s. 186.513, F.S., relating to regional planning council annual reports.
- Section 5. Provides that nothing in this part is intended to supersede the provisions of ch. 403, pt. II, F.S.
- Section 6. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues: None.
- 2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

¹² Historically, the term "department" was identified as the Department of Community Affairs [See s. 160.03(6), F.S. (1980), which revisers changed to s. 160.003, F.S. (See Table of Section Changes By 1980 Legislative Sessions)]. The sections comprising former chapter 160 were transferred to chapter 186 by the editors incident to compiling the 1984 supplement to the Florida Statutes 1983. Then, ch. 84-257, s. 18, L.O.F., deleted s. 186.503(6), F.S., which provided: "'Department' means the department of community affairs."

1. Revenues: The bill appears to have a minimal fiscal impact on individual local governments due to the loss of tree trimming permit fees paid by electric utilities.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides that an electric utility is no longer required to obtain a permit or other approval from local government for vegetation management and tree trimming within an established right-of-way for an electric power line. There may also be some costs to the electric utilities for providing the regional planning councils with their substation siting plans.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: While some municipalities and counties may lose tree trimming permit fees paid by electric utilities, the amount of the permit fees paid to an individual municipality or county is expected to be negligible. Therefore, it appears that this bill likely qualifies for the "laws having an insignificant fiscal impact" exemption in Article VII, Section 18(d) of the Florida Constitution.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 21, 2006, the Utilities & Telecommunications Committee adopted a strike-all amendment. The strike-all did the following:

- Provides a siting exception for historic preservation and conservation lands;
- Sets minimum setback requirements, if such requirements are not adopted by the local government;
- Provides that siting standards are on a going forward basis;
- Provides a deadline for approving a siting application;
- Provides that the bill does not affect the applicability and enforceability of any existing local regulatory land use procedures for conditional use or special exceptions which provide for public input if such procedures are in effect as of the act's effective date. However, in land use, conditional use, or special-exception review, the local government is limited to the standards and conditions adopted under s. 163.3208(2), F.S.
- Requires five days notice to local government before an electric utility does vegetation management activities within a right-of-way;
- Provides standards for vegetation maintenance practices;
- Provides that local governments may not adopt ordinances to require planting vegetation on rights-of-way or below aerial access points to substations that will grow in excess of 14 feet;

- Provides side clearance standards;
- Provides that s. 163.3209, F.S., does not supersede current franchise agreements or limit franchise authority;
- Provides that s. 163.3209, F.S., does not supersede ordinances governing the removal of certain trees;
- Requires the electric utilities to file their current plans to site substations with regional planning councils, and that information is to be included in the regional planning council's annual report.

On March 14, 2006, the Growth Management Committee adopted a strike-all amendment. The strike-all does the following:

- Provides a definition of "distribution electric substation."
- Adds historical preservation land use classifications to the area excluded from the application of this bill.
- Provides new timeframes to be set by local governments with respect to the provision of additional information on the substation siting application.
- Provides a definition for "vegetation maintenance and tree pruning or trimming."
- Clarifies the notification requirements for vegetation maintenance.
- Limits the maintenance activities that can impact specimens or historical trees or trees located in a canopy road protection area.
- Authorizes local governments to adopt a written maintenance plan for vegetation located within its rights-of-way with the concurrence from the applicable utility provider.
- Authorizes local governments to request a copy of electrical utilities' annual substation siting plans, which were previously forwarded only to regional planning councils.
- Corrects a reference to the state land planning agency.

CHAMBER ACTION

1 The Growth Management Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to electric transmission and distribution;
7 creating s. 163.3208, F.S.; providing legislative intent;
8 defining the term "distribution electric substation";
9 providing criteria for adoption and enforcement by a local
10 government of land development regulations for new
11 electric substations; providing that new substations are a
12 permitted use in all land use categories and zoning
13 districts within a utility's service territory; providing
14 for exceptions; providing standards which apply if a local
15 government does not adopt reasonable standards for
16 substation siting; providing for approval of an
17 application for development of a proposed distribution
18 electric substation when the application demonstrates that
19 the design is consistent with the local government's
20 applicable standards; providing for application of certain
21 local siting standards to applications received after
22 public notice of the adoption hearing on those standards;
23 providing a timeframe and procedures for a local

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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24 government to approve or deny an application for an
25 electric substation; providing that the application is
26 deemed approved if not acted on within the timeframe;
27 providing for waiver of timeframes; authorizing the local
28 government to establish timeframes for certain required
29 information to be furnished; creating s. 163.3209, F.S.;
30 prohibiting local governments from requiring any permits
31 or approvals for certain vegetation maintenance in an
32 established electric transmission or distribution line
33 right-of-way; defining the term "vegetation maintenance
34 and tree pruning or trimming"; providing for a utility to
35 give notice to the local government before conducting such
36 vegetation-maintenance activities; providing for
37 exceptions; requiring the utility to provide its
38 vegetation-maintenance plan to the local government and
39 discuss it with the local government; specifying standards
40 for vegetation maintenance and tree pruning or trimming
41 conducted by utilities; providing for supervision of
42 vegetation maintenance and tree pruning or trimming
43 activities; limiting the height and clearance distance of
44 vegetation that may be required by a local government in
45 an established right-of-way of certain lines; providing
46 for application and construction with respect to local
47 franchise authority and ordinances or regulations
48 governing pruning, trimming, or removal of certain trees;
49 providing for application when a local government has
50 adopted a described plan for vegetation maintenance, tree
51 pruning, tree removal, and tree trimming within

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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established rights-of-way; creating s. 186.0201, F.S.;
requiring electric utilities to notify the regional
planning council of plans to site electric substations;
providing for content of the notification; requiring that
the information be included in the regional planning
council's annual report and supplied to local governments
under certain conditions; amending s. 186.513, F.S.;
correcting a reference to a specified agency; providing
for application to the Florida Electrical Power Plant
Siting Act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 163.3208, Florida Statutes, is created
to read:

163.3208 Substation approval process.--

(1) It is the intent of the Legislature to maintain,
encourage, and ensure adequate and reliable electric
infrastructure in the state. It is essential that electric
infrastructure be constructed and maintained in various
locations in order to ensure the efficient and reliable delivery
of electric service. Electric infrastructure should be
constructed, to the maximum extent practicable, to achieve
compatibility with adjacent and surrounding land uses and the
criteria included in this section are intended to balance the
need for electricity with land use compatibility.

(2) The term "distribution electric substation" means an
electric substation which takes electricity from the

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80 transmission grid and converts it to a lower voltage so it can
81 be distributed to customers in the local area on the local
82 distribution grid through one or more distribution lines less
83 than 69 kilovolts in size.

84 (3) Electric substations are a critical component of
85 electric transmission and distribution. Local governments may
86 adopt and enforce reasonable land development regulations for
87 new distribution electric substations addressing only setback,
88 landscaping, buffering, screening, lighting, and other aesthetic
89 compatibility-based standards. Vegetated buffers or screening
90 beneath aerial access points to the substation equipment shall
91 not be required to have a mature height in excess of 14 feet.

92 (4) New distribution electric substations shall be a
93 permitted use in all land use categories in the applicable local
94 government comprehensive plan and zoning districts within a
95 utility's service territory except those designated as
96 preservation, conservation, or historic preservation on the
97 future land use map or duly adopted ordinance. If a local
98 government has not adopted reasonable standards for substation
99 siting in accordance with subsection (3), the following
100 standards shall apply to new distribution electric substations:

101 (a) In nonresidential areas, the substation must comply
102 with the setback and landscaped buffer area criteria applicable
103 to other similar uses in that district, if any.

104 (b) Unless the local government approves a lesser setback
105 or landscape requirement, in residential areas, a setback of up
106 to 100 feet between the substation property boundary and
107 permanent equipment structures shall be maintained as follows:

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108 1. For setbacks between 100 feet and 50 feet, an open
109 green space shall be formed by installing native landscaping,
110 including trees and shrub material, consistent with the relevant
111 local government's land development regulations. Substation
112 equipment shall be protected by a security fence consistent with
113 the relevant local government's land development regulations.

114 2. For setbacks of less than 50 feet, a buffer wall 8 feet
115 high or a fence 8 feet high with native landscaping consistent
116 with the relevant local government's regulations shall be
117 installed around the substation.

118 (5) If the application for a proposed distribution
119 electric substation demonstrates that the substation design is
120 consistent with the local government's applicable setback,
121 landscaping, buffering, screening, and other aesthetic
122 compatibility-based standards, the application for development
123 approval for the substation shall be approved.

124 (6) Substation siting standards adopted after the
125 effective date of this act shall not apply to electric utility
126 substation applications that were submitted prior to the notice
127 of the local government's adoption hearing.

128 (7)(a) If a local government has adopted standards for the
129 siting of electric substations within any of the local
130 government's land use categories or zoning districts, the local
131 government shall grant or deny a properly completed application
132 for a permit to locate an electric substation within the land
133 use category or zoning district within 90 days after the date
134 the properly completed application is declared complete in
135 accordance with the applicable local government application

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136 procedures. If the local government fails to approve or deny a
137 properly completed application for an electric substation within
138 the timeframes set forth, the application shall be deemed
139 automatically approved and the applicant may proceed with
140 construction consistent with its application without
141 interference or penalty. Issuance of such local permit does not
142 relieve the applicant from complying with applicable federal or
143 state laws or regulations and other applicable local land
144 development or building regulations, if any.

145 (b) The local government shall notify the permit applicant
146 within 30 days after the date the application is submitted as to
147 whether the application is, for administrative purposes only,
148 properly completed and has been properly submitted. Further
149 completeness determinations shall be provided within 15 days
150 after the receipt of additional information. However, such
151 determination shall not be not deemed an approval of the
152 application.

153 (c) To be effective, a waiver of the timeframes set forth
154 in this subsection must be voluntarily agreed to by the utility
155 applicant and the local government. A local government may
156 request, but not require, a waiver of the timeframes by the
157 applicant, except that, with respect to a specific application,
158 a one-time waiver may be required in the case of a declared
159 local, state, or federal emergency that directly affects the
160 administration of all permitting activities of the local
161 government.

162 (d) The local government may establish reasonable
163 timeframes within which the required information to cure the

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164 application deficiency is to be provided or the application will
165 be considered withdrawn or closed.

166 Section 2. Section 163.3209, Florida Statutes, is created
167 to read:

168 163.3209 Electric transmission and distribution line
169 right-of-way maintenance.--After a right-of-way for any electric
170 transmission or distribution line has been established and
171 constructed, no local government shall require or apply any
172 permits or other approvals or code provisions for or related to
173 vegetation maintenance and tree pruning or trimming within the
174 established right-of-way. The term "vegetation maintenance and
175 tree pruning or trimming" means the mowing of vegetation within
176 the right-of-way, removal of trees or brush within the right-of-
177 way, and selective removal of tree branches that extend within
178 the right-of-way. The provisions of this section do not include
179 the removal of trees outside the right-of-way, which may be
180 allowed in compliance with applicable local ordinances. Prior to
181 conducting scheduled routine vegetation maintenance and tree
182 pruning or trimming activities within an established right-of-
183 way, the utility shall provide the local government with a
184 minimum of 5 business days' advance notice. Such advance notice
185 is not required for vegetation maintenance and tree pruning or
186 trimming required to restore electric service or to avoid an
187 imminent vegetation-caused outage or when performed at the
188 request of the property owner adjacent to the right-of-way,
189 provided that the owner has approval of the local government, if
190 needed. Upon the request of the local government, the electric
191 utility shall meet with the local government to discuss and

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192 submit the utility's vegetation maintenance plan, including the
193 utility's trimming specifications and maintenance practices.
194 Vegetation maintenance and tree pruning or trimming conducted by
195 utilities shall conform to ANSI A300 (Part I)--2001 pruning
196 standards and ANSI Z133.1-2000 Pruning, Repairing, Maintaining,
197 and Removing Trees, and Cutting Brush--Safety Requirements.
198 Vegetation maintenance and tree pruning or trimming conducted by
199 utilities must be supervised by qualified electric utility
200 personnel or licensed contractors trained to conduct vegetation
201 maintenance and tree trimming or pruning consistent with this
202 section or by Certified Arborists certified by the Certification
203 Program of the International Society of Arboriculture. A local
204 government shall not adopt an ordinance or land development
205 regulation that requires the planting of a tree or other
206 vegetation that will achieve a height greater than 14 feet in an
207 established electric utility right-of-way or intrude from the
208 side closer than the clearance distance specified in Table 2 of
209 ANSI Z133.1-2000 for lines affected by the North American
210 Electric Reliability Council Standard, FAC 003.1 requirement
211 R1.2. This section does not supersede or nullify the terms of
212 specific franchise agreements between an electric utility and a
213 local government and shall not be construed to limit a local
214 government's franchising authority. This section does not
215 supersede local government ordinances or regulations governing
216 pruning, trimming, or removal of specimen trees or historical
217 trees, as defined in a local government's ordinances or
218 regulations, or trees within canopy road protection areas. This
219 section shall not apply if a local government has adopted a

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written plan, with concurrence from the applicable utility provider, specifically for vegetation maintenance, tree pruning, tree removal, and tree trimming within established rights-of-way.

Section 3. Section 186.0201, Florida Statutes, is created to read:

186.0201 Electric substation planning.--Electric utility substations respond to development and, consequently, siting locations cannot be precisely planned years in advance. Nevertheless, on or before June 1 of every year after the effective date of this act, the electric utilities with service areas within each regional planning council shall notify the regional planning council of the utilities' current plans over a 5-year period to site electric substations within the local governments contained within each region, including an identification of whether each electric substation planned within a general area is a distribution or transmission electric substation, a listing of the proposed substations' site acreage needs and anticipated capacity, and maps showing general locations of the planned electric substations. This information is advisory, shall be included in the regional planning council's annual report prepared pursuant to s. 186.513, and shall be supplied directly to local governments requesting the information.

Section 4. Section 186.513, Florida Statutes, is amended to read:

186.513 Reports.--Each regional planning council shall prepare and furnish an annual report on its activities to the

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248 state land planning agency as defined in s. 163.3164(20)
249 ~~department~~ and the local general-purpose governments within its
250 boundaries and, upon payment as may be established by the
251 council, to any interested person. The regional planning
252 councils shall make a joint report and recommendations to
253 appropriate legislative committees.

254 Section 5. Nothing in this act is intended to supersede
255 the provisions of part II of chapter 403, Florida Statutes.

256 Section 6. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 495

Baker County

SPONSOR(S): Bean

TIED BILLS:

IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--------------------------------------|---------|-------------------|------------------|
| 1) <u>Local Government Council</u> | <u></u> | Nelson <u>JPN</u> | Hamby <u>JJC</u> |
| 2) <u>Criminal Justice Committee</u> | <u></u> | <u></u> | <u></u> |
| 3) <u>Justice Council</u> | <u></u> | <u></u> | <u></u> |
| 4) <u></u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

HB 495 specifies the rights of certain employees and appointees of the Baker County Sheriff. The bill provides that an employee or appointee of the sheriff to whom the act applies will be considered to have attained career service status once he or she has completed the initial or extended probationary period. "Probationary period" is defined to mean six months of conditional employment or appointment commencing on the date of actual work in a position. If a person is reemployed at a later date, he or she is required to complete the probationary period. A person also is required to repeat probationary service if promoted to a higher rank or position having a greater pay rate.

The bill provides that when a newly elected or appointed sheriff assumes office, all career service status appointees and employees will remain employees of the new administration. The new sheriff may reduce appointees one rank below the rank held on the day before he or she assumes office if such rank was held continuously for the prior six months of employment. The salary of any displaced person may not be reduced more than five percent. The bill also provides that a new sheriff may assign civilian appointees and the former sheriff's secretary to the next highest position classification.

The act additionally provides that the sheriff may adopt such rules as are necessary for the implementation and administration of the act, and that nothing in the act is to be construed as affecting the budget-making powers of the Baker County Board of County Commissioners of Baker County.

The bill has an effective date of upon becoming law.

According to the Economic Impact Statement, the bill has no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

This bill authorizes the sheriff to adopt such rules as are necessary for the implementation and administration of the act.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Sixty-six of Florida's 67 counties have elected sheriffs as their chief law-enforcement officers. Miami-Dade County has an appointed chief law-enforcement officer whose title is Director of the Miami-Dade Police Department. Sheriffs serve four-year terms, and have county-wide jurisdiction that includes incorporated as well as unincorporated areas.

Pursuant to s. 14, Art. III of the State Constitution, s. 125.01(1)(u), F.S., and s. 30.53, F.S., a civil service system for sheriff's employees may be created by local governments via local ordinance. Section 14 of Art. III of the State Constitution provides:

By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district or municipal employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection and tenure of such employees and officers.

The powers of the governing body of a county are set forth in s. 125.01, F.S. This power includes the authority, as provided in paragraph (u) of subsection (1) of s. 125.01, F.S., to "[c]reate civil service systems and boards." While the independence of a sheriff is preserved in s. 30.53, F.S., that section contains a further provision that it not be construed to "restrict the establishment or operation of any civil service system" or board created pursuant to s. 14, Art. III of the State Constitution. See, also, City of Casselberry v. Orange County Police Benevolent Association, 482 So. 2d 336 (Fla. 1986) (providing that local governments are vested with the authority to establish civil service systems via local ordinance).

A number of sheriffs have civil service systems established by the Legislature through special act, including: Alachua (chs. 84-388 and 86-342, L.O.F.), Bay (ch. 84-390, L.O.F.), Brevard (ch. 83-373, L.O.F.), Broward (ch. 93-370, L.O.F.), Charlotte (chs. 79-436, 86-349 and 89-508, L.O.F.), Citrus (ch. 2001-296, L.O.F.), Clay (chs. 89-522 and 93-379, L.O.F.), Columbia (ch. 2004-413, L.O.F.), Escambia (ch. 89-492, L.O.F.), Flagler (chs. 90-450 and 2000-482, L.O.F.), Glades (ch. 2003-311, L.O.F.), Hernando (ch. 2000-414, L.O.F.), Indian River (ch. 2002-355, L.O.F.), Lake (chs. 90-386, 93-358 and 2005-349, L.O.F.), Lee (chs. 74-522, 87-547 and 95-514, L.O.F.), Leon (ch. 83-456, L.O.F.), Madison (95-470), Manatee (89-472), Marion (87-457), Martin (93-388), Monroe (78-567, 89-410, 89-461, 97-345 and 98-507, L.O.F.), Okaloosa (chs. 81-442, 85-472 and 90-492, L.O.F.), Orange (ch. 89-507, L.O.F.), Osceola (chs. 89-516 and 2000-388, L.O.F.), Palm Beach (chs. 93-367, 99-437 and 2004-404, L.O.F.), Pasco (ch. 90-491, L.O.F.), Pinellas (chs. 89-404 and 90-395, L.O.F.), Polk (chs. 88-443 and 98-516, L.O.F.), St. Lucie (ch. 89-475, L.O.F.), Santa Rosa (ch. 2002-385, L.O.F.), Sarasota (ch. 86-344, L.O.F.), and Seminole (ch. 77-653, 80-612, 88-451 and 97-376, L.O.F.) counties.

The Baker County Sheriff's Office currently does not have a civil service system.¹

¹ The terms "civil service system" and "career service system" are used interchangeably.

Proposed Changes

HB 495 specifies the rights of certain employees and appointees of the Baker County Sheriff. The act applies to all certified and noncertified persons appointed or employed by the Baker County Sheriff, with the following exceptions:

- special deputy sheriffs appointed under s. 30.09(4), F.S.²;
- members of a sheriff's posse or reserve unit;
- part-time appointees and employees, whether compensated or not, who are scheduled to work less than 40 hours per week;
- independent contractors, temporary employees or contract employees; and
- persons who are appointed or employed pursuant to a grant whose continued existence or funding is subject to the expiration or withdrawal of the grant provider.

The bill provides that an employee or appointee of the sheriff to whom the act applies will be considered to have attained career service status once he or she has completed the initial or extended probationary period. "Probationary period" is defined to mean six months of conditional employment or appointment commencing on the date of actual work in a position. If a person is reemployed at a later date, he or she is required to complete the probationary period before becoming eligible for any rights under the act. A person also is required to repeat probationary service if promoted to a higher rank or position having a greater pay rate.

The bill provides that when a newly elected or appointed sheriff assumes office, all career service status appointees and employees will remain employees of the new administration. The new sheriff may reduce appointees one rank below the rank held on the day before he or she assumes office if such rank was held continuously for the prior six months of employment. The salary of any displaced person may not be reduced more than five percent. The bill also provides that a new sheriff may assign civilian appointees and the former sheriff's secretary to the next highest position classification.

The act additionally provides that the sheriff may adopt such rules as are necessary for the implementation and administration of this act, and that nothing in the act is to be construed as affecting the budget-making powers of the Board of County Commissioners of Baker County.

The bill has an effective date of upon becoming law.

SECTION DIRECTORY:

Section 1: Provides certain Baker County Sheriff employees and appointees with career service status; provides transition provisions; and provides for implementation and administration of the act.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

² This section designates special deputy sheriffs appointed by the sheriff: (a) to attend elections on election days; (b) to perform undercover investigative work; (c) for specific guard or police duties in connection with public sporting or entertainment events, not to exceed 30 days; or for watch or guard duties, when serving in such capacity at specified locations or areas only; (d) for special and temporary duties, without power of arrest, in connection with guarding or transporting prisoners; (e) to aid in preserving law and order, or to give necessary assistance in the event of any threatened or actual hurricane, fire, flood or other natural disaster, or in the event of any major tragedy such as an act of local terrorism or a national terrorism alert, an airplane crash, a train or automobile wreck, or a similar accident; (f) to raise the power of the county, by calling bystanders or others, to assist in quelling a riot or any breach of the peace, when ordered by the sheriff or an authorized general deputy; (g) to serve as a parking enforcement specialist pursuant to s. 316.640(2), F.S.

IF YES, WHEN? January 18 and 19, 2006

WHERE? *The Baker County Press* and *The Baker County Standard*; weekly newspapers published in Baker County, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill authorizes the sheriff to adopt such rules as are necessary for the implementation and administration of the act, although it is specified that nothing in the act may be construed as affecting the budget-making powers of the Board of County Commissioners of Baker County.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

This bill does not, in effect, provide a "career service system" for Baker County Sheriff employees. While it provides for the applicability of the act, and career service status, it does not provide an employee with any rights other than with regard to when a new sheriff takes office.

The fact that the bill unequivocally provides that "all career service status appointees and employees shall remain employees of the new administration" could provide problems for any new sheriff faced with disciplinary matters.

Also, it would seem that the drafters of the bill meant to provide for assigning employees of a former sheriff to a lower rather than higher classification re: Line 67.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

THE BAKER COUNTY PRESS

Published Weekly, Macclenny, Baker County, Florida

AFFIDAVIT OF PUBLICATION

STATE OF FLORIDA
COUNTY OF BAKER:

NOTICE OF INTENTION TO APPLY FOR LOCAL LEGISLATION

Notice is hereby given, that the undersigned will apply to the 2006 Legislature of the State of Florida for the introduction of a local bill affecting Baker County, Florida, the substance of said bill being substantially as follows:

A BILL TO BE ENTITLED

An act relating to Baker County; specifying rights of certain employees and appointees of the Baker County Sheriff; providing applicability; providing definitions; providing for career service status; providing proceedings and provisions with respect to transition between administrations; providing rulemaking authority for purposes of implementation and administrative; providing for an effective date.

Baker County Sheriff's Office
56 North 2nd Street
Macclenny, Florida 32063
1/19c

Before me the undersigned authority personally appeared Barbara Blackshear, who on oath says that he/she is an employee of *The Baker County Press*, a weekly newspaper published at Macclenny in Baker County, Florida; that the attached copy of the advertisement, being a Notice of Intention in the matter of Apply for local legislation in the Baker Court, was published in said newspaper in the issues of January 19, 2006.

Affiant further says that said *The Baker County Press* is a newspaper published at Macclenny, in said Baker County, Florida, and that the said newspaper has heretofore been continuously published in said Baker County, Florida, each week and has been entered as second-class mail matter at the post office in Macclenny, in said Baker County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Barbara Blackshear
(Signature of Affiant)

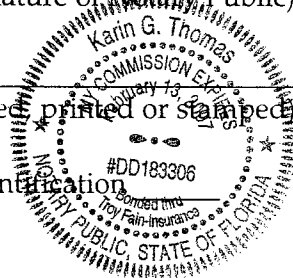
Sworn and subscribed before me this 19 day of January, 20 06.

Karin G. Thomas
(Signature of Notary Public)

Karin G. Thomas

(Name of notary typed, printed or stamped)

Personally Known xx or Produced Identification



495

THE BAKER COUNTY STANDARD
PUBLISHED WEEKLY
IN THE CITY OF MACCLENLY,
BAKER COUNTY, FLORIDA.
STATE OF FLORIDA
COUNTY OF BAKER

AFFIDAVIT OF PUBLICATION

Before me, this undersigned authority personally appeared **BRYANA STAFFORD** who on oath says that she is one of the firm of **THE BAKER COUNTY STANDARD**, a weekly newspaper published in Macclenny, Baker County, Florida; that the attached copy of advertisement, being a notice to appear in re: **PUBLIC NOTICE: BAKER COUNTY SERRIFF'S OFFICE EMPLOYEES CAREER SERVICE** was published in said newspaper in the issue of: **SEPTEMBER 28 & OCTOBER 5, 2005**. Affiant says further that the said **BAKER COUNTY STANDARD** is a newspaper published at Macclenny, in said Baker County, Florida, and that the said newspaper has heretofore been continuously published in said Baker County, Florida each week; has been entered as second class mail matter at the post office in Macclenny, in said Baker County, Florida, for a period of 1 year next preceding the first publication of the attached copy of notice; and affiant further states that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Bryana Stafford
Signature of Affiant

Sworn to and subscribed before me this 18th day of NOVEMBER, 2005.

Sondra D. Miller
Signature of Notary Public



Sondra D. Miller
Commission # DD429317
Expires June 17, 2009
Bonded Troy Fahn - Insurance, Inc. 800-385-7919

Name of Notary Public typed, printed or stamped

Personally Known X or Produced Identification _____

Type of Identification Produced _____

Public Hearing Notice

For Immediate Release From the Baker County Sheriff's Office

The Baker County Sheriff's Office intends to file a local legislation bill related to an act entitled: BAKER COUNTY SHERIFF'S OFFICE EMPLOYEES CAREER SERVICE

**BAKER COUNTY SHERIFF'S OFFICE
EMPLOYEES CAREER SERVICE**

A public hearing will be held on October 6, 2005 at 3:30 p.m. at the Baker County Board of Commissioners.

Dates of Publication September 28, & October 5, 2005.

**HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION**

BILL #: HB 495
SPONSOR(S): Bean
RELATING TO: Baker County Sheriff Office Career Service
[Indicate Area Affected (City, County, Special District) and Subject]
NAME OF DELEGATION: Baker County
CONTACT PERSON: Sandy Matthews
PHONE # and E-Mail: (904) 491-3664 sandy.matthews@myfloridahouse.gov

- I. House policy requires that three things occur before a council or a committee of the House considers a local bill:
(1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. **Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.**

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES ☒ NO ☐

(2) Has a public hearing been held? YES ☒ NO ☐

Date hearing held: Oct 6, 2005

Location: Baker County Administration Building

(3) Was this bill formally approved by a majority of the delegation members?
YES ☒ NO ☐ UNIT RULE ☐ UNANIMOUS ☐

- II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES ☒ NO ☐ DATE Sept 29, 2005

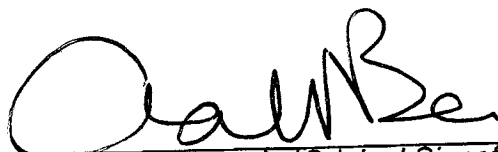
Where? Baker County Press County Baker

Referendum in lieu of publication: YES ☐ NO ☒

- III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional taxation requirement been met?
YES ☐ NO ☐ NOT APPLICABLE ☒

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.



Delegation Chair (Original Signature) Date

**HOUSE LOCAL GOVERNMENT & VETERANS' AFFAIRS COMMITTEE
2004 ECONOMIC IMPACT STATEMENT**

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House Local Government & Veterans' Affairs Committee that no bill will be considered by a subcommittee or the Committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the House Local Government & Veterans' Affairs Committee as soon as possible after the bill is filed.

BILL #: 14264

SPONSOR(S): _____

RELATING TO: _____

[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

FY 04-05 FY 05-06

Expenditures: No cost predicted

II. ANTICIPATED SOURCE(S) OF FUNDING:

FY 04-05 FY 05-06

Federal:

N/A

State:

Local:

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

FY 04-05 FY 05-06

Revenues:

N/A

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages:

None

Disadvantages:

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR
EMPLOYMENT:

None

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF
DATA]:

PREPARED BY: 

[Must be signed by Preparer]

11-17-05
Date

TITLE: Chief

REPRESENTING: Joey B. Dobsor, Sheriff

PHONE: 904-259-2231

E-Mail Address: gonzalez@sheriffsoffice.co.baker.
fl.us.

A bill to be entitled
An act relating to Baker County; specifying rights of certain employees and appointees of the Baker County Sheriff; providing applicability; providing definitions; providing for career service status; providing proceedings and provisions with respect to transition between administrations; providing rulemaking authority for purposes of implementation and administration; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Employees and appointees of the Baker County Sheriff; applicability; definitions; career service status; transition; implementation and administration.--

(1) APPLICABILITY.--This act applies to all certified and noncertified persons appointed or employed by the Baker County Sheriff, with the following exceptions:

(a) Special deputy sheriffs appointed under section 30.09(4), Florida Statutes.

(b) Members of a sheriff's posse or reserve unit.

(c) Part-time appointees and employees, whether compensated or not, who are scheduled to work less than 40 hours per week.

(d) Independent contractors, temporary employees, or contract employees.

27 (e) Persons who are appointed or employed pursuant to a
 28 grant whose continued existence or funding is subject to the
 29 expiration or withdrawal of the grant provider.

30 (2) DEFINITIONS.--

31 (a) "Appointee" means that person selected by the sheriff
 32 to serve in the position of deputy sheriff or correctional
 33 officer who is a certified officer within the meaning of chapter
 34 943, Florida Statutes. For the purposes of this act, "appointee"
 35 and "employee" are synonymous and any derivative of "employee"
 36 refers to the persons to whom this act applies.

37 (b) "Employee" means any person employed by the sheriff
 38 for a position that does not require certification under chapter
 39 943, Florida Statutes.

40 (c) "Probationary period" means 6 months of conditional
 41 employment or appointment commencing on the date of actual work
 42 in the position to which promoted.

43 (d) "Reemployment" means reappointment or the reemployment
 44 of a person who was previously an appointee or employee of the
 45 Office of the Sheriff.

46 (3) CAREER SERVICE STATUS.--

47 (a) After an employee or appointee of the sheriff to whom
 48 this act applies has completed the initial or extended
 49 probationary period, such person shall be considered to have
 50 attained career service status in the Office of the Sheriff. If
 51 such person is reemployed at a later date, the person shall be
 52 required to complete the probationary period again before
 53 becoming eligible for any rights under this act.

54 (b) After an employee or appointee is promoted to a higher
 55 rank or position having a greater pay rate, such person shall be
 56 considered to have attained career service status in the
 57 position to which promoted after completing 6 months of
 58 continuous service in that position.

59 (4) TRANSITION.--When a newly elected or appointed sheriff
 60 assumes office, all career service status appointees and
 61 employees shall remain employees of the new administration.

62 (a) The new sheriff may only reduce appointees one rank
 63 below the rank held on the day before the new sheriff assumes
 64 office if such rank was held continuously for the prior 6 months
 65 of employment.

66 (b) The new sheriff may assign the civilian appointees and
 67 sheriff's secretary to the next highest position classification.

68 (c) The salary of any displaced officer or person may not
 69 be reduced more than 5 percent.

70 (5) IMPLEMENTATION AND ADMINISTRATION.--The sheriff may
 71 adopt such rules as are necessary for the implementation and
 72 administration of this act; however, nothing in this act shall
 73 be construed as affecting the budget-making powers of the Board
 74 of County Commissioners of Baker County.

75 Section 2. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

22 (f) Appointees and employees employed pursuant to a grant
23 whose continued existence or funding is subject to the
24 expiration or withdrawal of the grant provider.

25 (3) APPLICATION TO COLLECTIVE BARGAINING.--This act does
26 not grant the right of collective bargaining to employee's of
27 the Baker County Sheriff's Office who do not otherwise have that
28 right pursuant to law.

29 (4) NONDISCIPLINARY DISMISSALS.--This act does not cover
30 the nondisciplinary dismissal of employees or appointees. Such
31 nondisciplinary dismissals include those arising from a
32 reduction in force, layoff, or partial or total abolition or
33 cessation of a program, service, operation, department,
34 subdivision, or grant-funded position.

35 (6) DEFINITIONS.--

36 (a) "Appointee" means a person selected by the Sheriff to
37 serve in the position of deputy sheriff or correctional officer
38 who is certified within the meaning of chapter 943, Florida
39 Statutes.

40 (b) "Employee" means any person employed by the Sheriff
41 for a position which does not require certification under
42 chapter 943, Florida Statutes.

43 (c) "Dismissal" means the discharge or withdrawal of
44 appointment by the Sheriff or his or her designee of a person
45 employed or appointed to a position with the Office of Sheriff.

46 (d) "Initial probationary period" means 1 year of
47 conditional employment or appointment commencing on the initial
48 date of actual work and continuing for 12 months in a regularly
49 established position. This probationary period may be extended
50 at the discretion of the Sheriff for a period equal to any work
51 absences during the 12-month period. For the purpose of
52 determining career service status as defined in this act, all

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

time in the employment of the Office of the Sheriff while in a Criminal Justice Standards and Training Commission-approved academy or other comparable training for certification as a sworn officer or deputy sheriff shall not be considered in any manner in determining whether the employee has attained 1 calendar year of minimum service.

(e) "Career Appeals Board" means the ad hoc board authorized under this Act to hear disciplinary appeals.

(f) "Reemployment" means the reappointment or reemployment of a person who was previously an appointee or employee of the Office of Sheriff.

For the purposes of this Act, "appointee" and "employee" are synonymous and any derivative of "employ" refers to the persons to whom this Act applies.

(7) CAREER SERVICE STATUS.—

(a) After any employee or appointee of the Sheriff to whom the provisions of this act apply has completed the initial or extended probationary period, such person shall have attained career service status in the Office of Sheriff. If such person is reemployed at a later date, said person shall be required to again complete the probationary period before being granted the right of appeal provided in section 2.

(b) The Sheriff may dismiss an appointee or employee who has not completed the initial or extended probationary period at any time without granting the right of appeal provided in section 2.

(c) Any person who has attained career service status with the Baker County Sheriff's Office may only be suspended or dismissed for cause, provided that, prior to such action, the employee must be provided with written notice of the proposed action and offered an opportunity to respond to the reasons for

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

84 the suspension or dismissal. If, however, the Sheriff perceives
85 a significant hazard in keeping the employee on the job, or
86 where delay could result in damage or injury, the employee may
87 be immediately suspended or dismissed without notice, provided,
88 however, that the employee is later provided with such notice
89 and reasons within 24 hours. "Cause for suspension or dismissal"
90 includes, but is not limited to, negligence, inefficiency or
91 inability to perform assigned duties, insubordination, violation
92 of provisions of law or office rules, conduct unbecoming a
93 public employee, misconduct, alcohol abuse, prescription drug
94 abuse, or illegal drug use. "Cause for suspension or dismissal"
95 also includes, but is not limited to, adjudication of guilt by a
96 court of competent jurisdiction, a plea of guilty or of nolo
97 contendere, or a verdict of guilty when adjudication of guilt is
98 withheld and the accused is placed on probation with respect to
99 any felony, misdemeanor, or major traffic infraction charges.

100 (d) An employee or appointee who has achieved career
101 service status is entitled to appeal a disciplinary suspension
102 or dismissal to a Career Service Appeals Board.

103 (8) TRANSITION.—When a newly elected or appointed Sheriff
104 assumes office, all career service status appointees and
105 employees shall remain employees of the new administration,
106 unless cause for dismissal, as provided herein, exists.

107 (a) The new Sheriff may reduce employees holding the rank
108 of Chief and Lieutenant one rank below that held on the day
109 before the new Sheriff assumes office. The regular base salaries
110 of these employees may be adjusted accordingly.

111 (b) The new Sheriff may assign the Personnel/Budget
112 Director and the Sheriff's Secretary to the next lowest position
113 classification within the pay and classification system, and
114 adjust their regular base salaries accordingly.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

115 (9) ADMINISTRATION.—The Sheriff shall have the authority
116 to adopt such rules and regulations as are necessary for the
117 implementation and administration of this act; however, nothing
118 in this act shall be construed as affecting the budget-making
119 powers of the Board of County Commissioners of Baker County.

120 Section 2. Career Service Appeals Boards; creation;
121 membership; duties.—

122 (1) FUNCTION OF BOARDS.—Ad Hoc Career Service Appeals
123 Boards shall be appointed for the purpose of hearing appeals of
124 employees having career service status arising from their
125 disciplinary suspension or dismissal. A Career Service Appeals
126 Board shall be utilized to make a nonbinding recommendation to
127 the Sheriff as to whether the suspension or dismissal was for a
128 violation of Sheriff's Office policy, rule, regulation,
129 procedure, or practice. Any such Board may also provide
130 assistance and advice to the Sheriff in matters concerning
131 disciplinary suspension or dismissal and may take any other
132 actions authorized by the Sheriff.

133 (2) MEMBERSHIP OF BOARD.—Upon the call of the Sheriff or
134 upon the filing of an appeal, an Ad Hoc Career Service Appeals
135 Board shall be appointed. The membership of each Board shall
136 consist of five appointees or employees of the Office of
137 Sheriff. Two members shall be selected by the employee or
138 appointee filing the appeal, two members shall be selected by
139 the Sheriff, and the fifth member, who shall serve as the Chair
140 of the Board, shall be selected by the other four members. Any
141 employee may decline to serve as a member of the Board.

142 (a) The hearing shall be conducted during the Sheriff's
143 Office administrative office hours; therefore, employees
144 selected to serve on the Board shall serve without additional
145 compensation. Once selected, the members of the Board shall

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

146 serve until the Board issues its recommendations to the
147 Sheriff's Office, and, unless reconvened, the Board shall be
148 dissolved.

149 (b) The Personnel/Budget Director or his or her designee
150 shall serve as an ex officio member of the Board for the purpose
151 of providing procedural guidance to the Board concerning the
152 application of this act and any rules or regulations adopted by
153 the Sheriff relating thereto, but such ex officio member shall
154 have no vote.

155 (3) PROCEDURE WITH RESPECT TO APPEALS.—An employee or
156 appointee who has achieved career service status may submit a
157 written request for a hearing to the Sheriff or his or her
158 designee within 7 calendar days after receiving a Notice of
159 Suspension or Dismissal which shall be hand-delivered or sent
160 certified mail, return receipt requested. The appeal must
161 contain a brief statement of the matters to be considered by the
162 Career Service Appeals Board and the names of the employees
163 selected to serve on the Board.

164 (a) A Career Appeals Board shall be selected and shall
165 meet for the purpose of hearing the appeal within 30 calendar
166 days after receipt of the Notice of Appeal. However, an
167 extension of time may be granted by the Chair for good cause or
168 upon agreement of the parties.

169 (b) The person filing the appeal has the right to a public
170 hearing, to be represented by a person of his or her choice, to
171 present relevant evidence, and to cross examine witnesses.

172 (c) The rules of evidence and civil procedure are not
173 applicable to hearings conducted under this act.

174 (d) The Board, in conducting such hearings, shall have the
175 power to issue subpoenas, upon the request of any party or upon
176 its own motion.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

177 (e) The Board shall, by majority vote, dispose of the
178 appeal for which it was appointed by making findings of fact and
179 issuing its written recommendations to the Sheriff for
180 consideration. The Sheriff shall retain the right of final
181 determination and no person may be reinstated with or without
182 back pay or benefits without the concurrence of the Sheriff.

183 Section 3. Severability.—The provisions of this act shall
184 be severable, and if any provision is held invalid by a court of
185 competent jurisdiction, the decision of the court shall not
186 affect the validity of the remaining provisions except to the
187 extent that an entire section or part of a section may be
188 inseparably connected in meaning and effect with the section or
189 part of a section to which such holding directly applies.

190 Section 4. This act shall take effect upon becoming a law.
191

192 ===== T I T L E A M E N D M E N T =====

193 Remove the entire title and insert:

194 An act relating to Baker County; providing career service status
195 for certain employees of the Baker County Sheriff; providing
196 definitions; providing for transition between administrations;
197 providing for appeals procedures; providing for career service
198 appeals boards; providing proceedings and provisions with
199 respect to disciplinary suspension and dismissal; providing
200 severability; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 917 CS

Property Taxes

SPONSOR(S): Needelman

TIED BILLS:

IDEN./SIM. BILLS: SB 1508

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|-----------------------------|----------------|----------|------------------|
| 1) Finance & Tax Committee | 6 Y, 2 N, w/CS | Monroe | Diez-Arguelles |
| 2) Local Government Council | | Camechis | Hamby <i>zde</i> |
| 3) Fiscal Council | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

This bill allows a charter county to restrict the annual growth in ad valorem tax revenues, but not below the lesser of 3 percent or the change in the Consumer Price Index. In computing the millage rate to conform to the revenue restriction, new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation and that increased the assessed value of such improvements by at least 100 percent, and property added due to geographic boundary changes are excluded. Also, the cap may be exceeded if the county commission, by a super-majority vote, makes a finding of necessity due to emergency or critical need.

Finally, the bill prohibits a county, through a municipal service taxing unit, from exceeding the millage rate specified in the ordinance that established such unit.

This bill has no effect upon state revenues and a negative indeterminate effect on local revenues in counties that choose to restrict annual growth in ad valorem tax revenues.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides for Lower Taxes – By allowing charter counties to limit increases in millage rates, this bill will provide for lower taxes in counties that adopt such limitations.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Ad Valorem Taxation - Ad valorem taxation is a tax on the fair market value of locally assessed real estate and tangible personal property, less certain exclusions, differentials, exemptions, and credits. The ability of local governments to raise revenue for their operations is narrowly constrained by the state constitution. Article VII, s. 1(a), of the Florida Constitution provides:

No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.

The State Constitution caps the millage rates assessed against the value of the property.¹ For counties, municipalities, and school districts, the cap is 10 mills.

Section 200.071, F.S., in part, implements the constitutional millage cap for counties. Except as otherwise provided in that section, counties may not levy more than 10 mills, except for voted levies, against real property and tangible personal property in their jurisdictions. Furthermore, counties may not levy more than 10 mills through a municipal service taxing unit against real property and tangible personal property within each such municipal service taxing unit.

Municipal Service Taxing Units (MSTUs) - Section 125.01(1)(q), F.S., authorizes counties to establish municipal service taxing or benefit units for any part or all of the unincorporated area of the county, within which the following may be provided:

fire protection; law enforcement; beach erosion control; recreation service and facilities; water; alternative water supplies, including, but not limited to, reclaimed water and water from aquifer storage and recovery and desalination systems; streets; sidewalks; street lighting; garbage and trash collection and disposal; waste and sewage collection and disposal; drainage; transportation; indigent health care services; mental health care services; and other essential facilities and municipal services from funds derived from service charges, special assessments, or taxes within such unit only.

If ad valorem taxes are levied, the millage levied on any parcel of property for municipal purposes by all municipal service taxing units may not exceed 10 mills.

Charter Counties - The Florida Constitution provides that the state must be divided by law into political subdivisions called counties.² There are two general types of counties in Florida: charter and non-charter. *Non-charter counties* have home-rule powers as provided by general or special law, and may enact ordinances that are not inconsistent with general or special law.³ *Charter counties* have all powers of local government not inconsistent with general law or with special law approved by vote of

¹ See Article VII, Section 9 of the State Constitution. A mill is defined as 1/1000 of a dollar, or \$1 per \$1000 of table value.

² Article VIII, s. 1(a) of the State Constitution. Ch. 7, F.S., specifies the physical boundaries of the 67 counties in Florida.

³ Article VIII, s. 1(f) of the State Constitution.

the electors.⁴ The county charter defines the structure, powers and functions of county government, and may only be approved, amended, or repealed by the county electorate. Approximately 80 percent of all Floridians live in one of the state's 19 charter counties.⁵

Recent Efforts to Cap Local Budgets - Numerous past local efforts to establish some type of millage rate or budget cap in county charters have been struck down by the courts as unconstitutional. Notable cases include the following:

- In *Board of County Commissioners of Dade County v. Wilson*,⁶ the Florida Supreme Court found that ch. 200, F.S., set forth the exclusive manner by which to set countywide millage rates. The court held that a proposed voter initiative to set a county millage rate at four mills for Dade County for 1980-1981 was unconstitutional.
- In *Board of County Commissioners of Marion County v. McKeever*,⁷ the Fifth District Court of Appeals found that chs. 129 and 200, F.S., contemplated the annual preparation and adoption of the budget and the setting of millage rates by a county commission. This court struck down a Marion County ordinance that purported to establish a cap of .25 mills of ad valorem tax for the county transportation fund for a period of ten years.
- In *Charlotte County Board of County Commissioners v. Taylor*,⁸ the Second District Court of Appeals found unconstitutional a voter approved amendment to the county's charter to limit the Commission's authority to adopt any millage rate which would result in more than a 3 percent increase in the total revenue generated over the total ad valorem taxes for the previous year. In so finding, the court noted the charter amendment was inconsistent with the provisions of chs. 129 and 200, F.S. The court struck down the charter amendment noting that Art. VIII, s. 1(g) of the State Constitution provides that the counties operating under county charters have all the powers of local self-government not inconsistent with general law.
- Attorney General Opinion 2001-04 opined to the Hillsborough County Board of County Commissioners that a county could not amend its charter to place a cap on the annual increase in the county's operating budget with a provision that the cap could be waived by an affirmative vote of at least six of the seven members of the board of county commissioners.
- Recently, in *Ellis v. Burk*,⁹ the Fifth District Court of Appeals struck down a tax cap provision of the Brevard County Home Rule Charter. The provision prohibited the county from increasing its ad valorem tax revenue in any one year by more than the lesser of 3 percent or the percentage change of the Consumer Price Index for the previous year, over the previous year's ad valorem revenues without the approval of a majority of the voters at a general or special election. In the decision, the court stated that "[u]nder our state constitution and statutory scheme, the power to limit a county commission's ability to raise revenue for the county's operating needs by way of ad valorem taxation is effectively and exclusively lodged in the [L]egislature."

Proposed Changes

The bill amends s. 200.71, F.S., to allow a charter county to cap the growth of its ad valorem tax revenue at a rate specified in its charter, even if this results in a millage cap that is less than the 10 mills allowed under s. 9, Art. VII of the State Constitution. However, the cap may not restrict the annual growth rate at a rate below the lesser of 3 percent or the change in the Consumer Price Index. Also, a

⁴ Article VIII, ss. 1(c) and (g) of the State Constitution.

⁵ The 19 charter counties include: Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval, Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, and Volusia.

⁶ 386 So. 2d 556 (Fla. 1980).

⁷ 436 So. 2d 299 (Fla. 5th DCA 1983).

⁸ 650 So. 2d 146 (Fla. 2d DCA 1995).

⁹ 866 So. 2d 1236 (Fla. 5th DCA 2004), *cert. denied*, 879 So.2d 621 (Fla. 2004).

county charter with an ad valorem cap must allow for the cap to be exceeded with a finding of necessity due to emergency or critical need by a super-majority vote of the county commission.

In applying the cap in the charter, the county must compute a millage rate that provides the same ad valorem revenue for each taxing authority as was levied in the prior year. However, this millage rate is "exclusive of any new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation and that increased the assessed value of such improvements by at least 100 percent, and property added due to geographic boundary changes." This millage rate is subject to the ad valorem cap in the county charter.

Finally, the bill prohibits a county, through a municipal service taxing unit, from exceeding the millage rate set in the ordinance establishing the municipal service taxing unit.

C. SECTION DIRECTORY:

Section 1. Amends s. 200.071, F.S., to allow charter counties to place a limitation on the growth of ad valorem millage rates in their charters.

Section 2. Provides an effective date of January 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None

2. Expenditures: None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: The fiscal impact of this bill on county revenues cannot be determined, since it depends on future actions by the voters in each charter county.

2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: If the electorate of a county chooses to cap growth in ad valorem revenues, taxes paid by the private sector may not increase as rapidly in the future.

D. FISCAL COMMENTS: None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None

B. RULE-MAKING AUTHORITY: None

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Finance and Tax Committee adopted an amendment to the bill to replace the term "Consumer Price Index" with "percentage change in the Consumer Price Index" which is technically the correct term for the measure of inflation the sponsor intended to use.

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CHAMBER ACTION

The Finance & Tax Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to property taxes; amending s. 200.071, F.S.; authorizing counties to cap annual growth in ad valorem tax revenues by charter; providing requirements and limitations; providing an exception; prohibiting ad valorem tax levies by counties in excess of amounts specified in the county charter; prohibiting ad valorem tax levies by counties through municipal service taxing units in excess of amounts specified in the ordinance establishing the unit; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1) and (3) of section 200.071, Florida Statutes, are amended to read:

200.071 Limitation of millage; counties.--

(1) (a) Except as otherwise provided herein, no ad valorem tax millage shall be levied against real property and tangible personal property by counties in excess of 10 mills or the

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24 | amount specified in the county charter, whichever is less, as
25 | provided in paragraph (b), except for voted levies.

26 | **(b)** A county may cap, through a provision in its charter,
27 | the annual growth in ad valorem tax revenues. Any such cap may
28 | not restrict the annual growth at a rate below the lesser of 3
29 | percent or the percentage change in the Consumer Price Index as
30 | provided in s. 193.155(1)(b). Any such cap specified in a county
31 | charter must allow for the cap to be overcome by a finding of
32 | necessity due to emergency or critical need by a super-majority
33 | vote of the county commission. In applying the increase or
34 | growth cap, the county shall compute a millage rate which,
35 | exclusive of new construction, additions to structures,
36 | deletions, increases in the value of improvements that have
37 | undergone a substantial rehabilitation which increased the
38 | assessed value of such improvements by at least 100 percent, and
39 | property added due to geographic boundary changes, will provide
40 | the same ad valorem tax revenue for each taxing authority as was
41 | levied during the prior year. It is the rate that shall be
42 | subject to any cap in growth or increase in ad valorem revenues
43 | established by county charter.

44 | **(3)** Any county which, through a municipal service taxing
45 | unit, provides services or facilities of the kind or type
46 | commonly provided by municipalities, may levy, in addition to
47 | the millages otherwise provided in this section, against real
48 | property and tangible personal property within each such
49 | municipal service taxing unit an ad valorem tax millage not in
50 | excess of 10 mills, or an amount specified in the ordinance
51 | establishing the municipal service taxing unit, if any,

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52 | whichever is less, to pay for such services or facilities
53 | provided with the funds obtained through such levy within such
54 | municipal service taxing unit.

55 | Section 2. This act shall take effect January 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 959 CS

Motor Vehicle Safety

SPONSOR(S): Roberson

TIED BILLS:

IDEN./SIM. BILLS: SB 1022 (s)

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|-----------------|-------------------|------------------|
| 1) Transportation Committee | 15 Y, 0 N, w/CS | Pugh | Miller |
| 2) Local Government Council | | DiVagno <i>RD</i> | Hamby <i>aje</i> |
| 3) Transportation & Economic Development Appropriations Committee | | | |
| 4) State Infrastructure Council | | | |
| 5) _____ | | | |

SUMMARY ANALYSIS

Public and private research on guard rails, cable barriers, clay berms, and other types of structural highway barriers indicates that, if properly placed and maintained, these systems improve the safety of public roads. The Federal Highway Administration, with assistance from the American Association of State Highway and Transportation Officials (AASHTO), other engineering associations, and state transportation agencies, continues to research and modify existing requirements for barrier systems.

The need for well-engineered guardrail and other highway barrier structures varies from state-to-state, as well as by the road's type, speed limit, and surrounding topographical features. One such feature common to Florida roadways is the location of natural water bodies, canals, or drainage ditches adjacent to highways.

National and statewide statistics for traffic fatalities caused by, or related to, the absence or failure of highway barrier systems and involving water are not readily available. However, the Florida Department of Transportation (FDOT) was able to collect specific data on traffic fatalities on the State Highway System involving vehicles submerged in water. In 2004, 28 fatal crashes occurred where the vehicles ran off the road and into an adjacent body of water in which 36 people died, including 20 whose deaths may have been caused by being submerged in water.

HB 959 CS requires that guardrails, retention cables, or other types of roadway barriers be installed, as part of a pilot project, along limited-access facilities in Miami-Dade County that are adjacent to canals or other water bodies. FDOT considers limited-access facilities to be part of the Florida Intrastate Highway System, which includes interstate highways and the Florida Turnpike. Roadways in existence on July 1, 2006, which are adjacent to water bodies, must have a barrier system installed by December 31, 2008. The barrier system must be installed and maintained by the appropriate governmental entity in compliance with FDOT standards established in rule. These standards must be designed to limit the loss of life by safely preventing an out-of-control motor vehicle from entering a canal or water body, based on a number of criteria. FDOT is directed to adopt rules to implement the provisions of this bill.

This bill would take effect July 1, 2006, and be repealed on December 31, 2011, unless reenacted by the Legislature.

HB 959 CS has an estimated \$5.3 million fiscal impact on the State Transportation Trust Fund, according to FDOT, and already is included in the agency's Five-Year Work Program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

HB 959 CS does not implicate any House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

Federal Highway Administration research reports dating back to 1987 indicate the value of guardrail and other barrier systems in preventing traffic accidents and fatalities. These barrier systems can take many forms – metal guardrails, thick metal cables, concrete barricades, and earthen berms – and to be effective must be engineered to address a highway's particular features and the type of traffic that comprises the majority of use. The American Association of State Highway and Transportation Officials (AASHTO) has developed a number of nationally accepted standards for barrier systems for federal and state transportation agencies. These standards are continually being tested and updated.

The Florida Department of Transportation (FDOT) has an active highway-barrier installation program, installing more than 2,645.5 miles of guardrails along state highways and the Florida Turnpike and 552 miles of barrier walls. The Turnpike has committed that by 2007, guardrails will run the Turnpike's entire length, from Wildwood to Homestead. Typically the guardrails or cable systems are installed as part of a construction or maintenance project.

Florida has more highway accidents involving out-of-control vehicles veering off a highway into an adjacent canal, drainage ditch, or natural water body than any other state. National and statewide statistics for traffic fatalities caused by, or related to, the absence or failure of highway barrier systems and involving water are not readily available. However, FDOT was able to compile statistics on 2003 and 2004 traffic accident data involving vehicles running off state roads and into water bodies. FDOT staff verified the data by pulling the written reports and reading the narrative description of the accident. FDOT's review indicated that:

- In 2004, there were 28 fatal crashes on the State Highway System where the vehicles ran off the road and into an adjacent body of water. These crashes resulted in 36 fatalities, of which 20 were possibly caused or influenced by the vehicle being submerged.
- In 2003, there were 34 crashes where the vehicles ran off the road and into an adjacent body of water. These crashes resulted in 49 fatalities, 28 of which were possibly caused or influenced by the vehicle being submerged.

According to the accident reports, some of these accidents were caused by drunken, medicated, speeding, or careless drivers. The reports also show that in some accidents the vehicle went over, under, or through guardrails or fences before going into the water.

Effect of Proposed Changes

HB 959 CS requires, as a pilot project, each limited-access facility in Miami-Dade County that is adjacent to a canal or other water body to have a system of guard rails, barrier cables, or other barrier installed between the highway and the water body. The guardrail or barrier system must be installed and maintained pursuant to FDOT standards, which must be designed to protect against loss of life from out-of-control vehicles running off highways and into water. The standards should take into account such factors as the width, depth, or proximity of the water body to the highway. Limited-access facilities in existence on July 1, 2006, which are adjacent to water bodies, must have a barrier system installed by December 31, 2008, according to the bill.

Section 334.03(13), F.S., defines a "limited access facility" as:

“a street or highway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility or for any other reason. Such highways or streets may be facilities from which trucks, buses, and other commercial vehicles are excluded; or they may be facilities open to use by all customary forms of street and highway traffic.”

FDOT considers limited-access facilities to be part of the Florida Intrastate Highway System, which includes interstate highways and the Florida Turnpike. With this bill affecting only limited-access facilities, no county or municipal roads in Miami-Dade County would be subject to the pilot project’s requirements.

FDOT is directed to adopt rules to implement the provisions of HB 959 CS, although it appears to have sufficient existing standards on guardrails and barrier systems based in part on national engineering standards.

HB 959 CS provides an effective date of July 1, 2006. The pilot project is repealed December 31, 2011, unless the Legislature reenacts it.

According to FDOT staff, the cost of implementing HB 959 CS is an estimated \$5.3 million, which already is included in the FY 2006-2011 Five-Year Work Program.

C. SECTION DIRECTORY:

Section 1: Creates pilot project to install guardrail and other barriers on certain limited-access facilities in Miami-Dade County. Specifies requirements that must be met. Specifies deadline for completing installation. Provides for rule-making. Provides for future repeal.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

HB 959 CS has an estimated \$5.3 million fiscal impact on the State Transportation Trust Fund, according to FDOT, and is already incorporated in the current Five-Year Work Program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None, according to FDOT.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

HB 959 CS does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

HB 959 CS directs FDOT to adopt rules to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Transportation Committee

At its March 27, 2006, meeting, the Transportation Committee adopted without objection a strike-everything-after-the-enacting clause amendment from the bill's sponsor that limited the barrier-system requirement to limited-access highways (or certain state highways) adjacent to water bodies located only in Miami-Dade County as a pilot project.

This amendment eliminated the local unfunded mandate issues raised by the bill as originally filed, and reduced its fiscal impact on FDOT from \$268 million to \$5.3 million – which FDOT representatives said is already budgeted in the work program.

After adopting the main amendment, the committee voted 15-0 to report the bill as favorable with a committee substitute.

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CHAMBER ACTION

The Transportation Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to a motor vehicle safety pilot program; requiring certain limited access facilities that are adjacent to a canal or other water body to have a system of guardrails, retention cables, or other barriers between the highway and the canal or water body; providing for the Department of Transportation to establish certain standards governing the installation and maintenance of the barriers; requiring that barriers be installed for existing highways by a specified date; providing for future review and repeal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Barrier required between a highway and a canal or a water body.--

(1) Each limited access facility in Miami-Dade County that is adjacent to a canal or other water body must have a system of guardrails, retention cables, or other barriers between the

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24 highway and the canal or water body which are installed and
25 maintained in conformance with standards established by the
26 Florida Department of Transportation. The standards should
27 consider loss of life by safely preventing out-of-control motor
28 vehicles from entering the canal or water body, as well as the
29 width or depth of the canal or water body or its proximity to
30 the traveled way of the highway.

31 (2) For a limited access facility in existence on July 1,
32 2006, the barriers required under this section must be installed
33 on or before December 31, 2009.

34 (3) This pilot program shall stand repealed December 31,
35 2011, unless reviewed and saved from repeal through enactment by
36 the Legislature.

37 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1161

Okeechobee County

SPONSOR(S): Machek

TIED BILLS:

IDEN./SIM. BILLS: SB 2220

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|-----------------|---------------|-------------------|
| 1) <u>Governmental Operations Committee</u> | <u>6 Y, 0 N</u> | <u>Brown</u> | <u>Williamson</u> |
| 2) <u>Local Government Council</u> | <u></u> | <u>Nelson</u> | <u>Hamby</u> |
| 3) <u>Fiscal Council</u> | <u></u> | <u></u> | <u></u> |
| 4) <u>State Administration Council</u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

HB 1161 provides a career service system for employees of the Okeechobee County Sheriff's Office. The bill provides for the application of the act to all full-time sworn and civilian persons employed by the sheriff with specified exemptions. The bill also provides for probationary periods, a process for suspension or dismissal, the creation and duties of ad hoc career service appeal boards, and the transition of employees during a new administration.

According to the Economic Impact Statement, this bill will not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill creates career service boards to hear employee disciplinary cases. These boards have subpoena power as part of the disciplinary hearing process. The sheriff is granted rulemaking authority to implement the legislation.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Sixty-six of Florida's 67 counties have elected sheriffs as their chief law-enforcement officers. Miami-Dade County has an appointed chief law-enforcement officer whose title is Director of the Miami-Dade Police Department. Sheriffs serve four-year terms, and have county-wide jurisdiction that includes incorporated as well as unincorporated areas.

Pursuant to s. 14, Art. III of the State Constitution, s. 125.01(1)(u), F.S., and s. 30.53, F.S., a civil service system for sheriff's employees may be created by local governments via local ordinance. Section 14 of Art. III of the State Constitution provides:

By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district or municipal employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection and tenure of such employees and officers.

The powers of the governing body of a county are set forth in s. 125.01, F.S. This power includes the authority, as provided in paragraph (u) of subsection (1) of s.125.01, F.S., to "[c]reate civil service systems and boards." While the independence of a sheriff is preserved in s. 30.53, F.S., that section contains a further provision that it not be construed to "restrict the establishment or operation of any civil service system" or board created pursuant to s. 14, Art. III of the State Constitution. See, also, City of Casselberry v. Orange County Police Benevolent Association, 482 So. 2d 336 (Fla. 1986) (providing that local governments are vested with the authority to establish civil service systems via local ordinance).

A number of sheriffs have civil service systems established by the Legislature through special act, including: Alachua (chs. 84-388 and 86-342, L.O.F.), Bay (ch. 84-390, L.O.F.), Brevard (ch. 83-373, L.O.F.), Broward (ch. 93-370, L.O.F.), Charlotte (chs. 79-436, 86-349 and 89-508, L.O.F.), Citrus (ch. 2001-296, L.O.F.), Clay (chs. 89-522 and 93-379, L.O.F.), Columbia (ch. 2004-413, L.O.F.), Escambia (ch. 89-492, L.O.F.), Flagler (chs. 90-450 and 2000-482, L.O.F.), Glades (ch. 2003-311, L.O.F.), Hernando (ch. 2000-414, L.O.F.), Indian River (ch. 2002-355, L.O.F.), Lake (chs. 90-386, 93-358 and 2005-349, L.O.F.), Lee (chs. 74-522, 87-547 and 95-514, L.O.F.), Leon (ch. 83-456, L.O.F.), Madison (95-470), Manatee (89-472), Marion (87-457), Martin (93-388), Monroe (78-567, 89-410, 89-461, 97-345 and 98-507, L.O.F.), Okaloosa (chs. 81-442, 85-472 and 90-492, L.O.F.), Orange (ch. 89-507, L.O.F.), Osceola (chs. 89-516 and 2000-388, L.O.F.), Palm Beach (chs. 93-367, 99-437 and 2004-404, L.O.F.), Pasco (ch. 90-491, L.O.F.), Pinellas (chs. 89-404 and 90-395, L.O.F.), Polk (chs. 88-443 and 98-516, L.O.F.), St. Lucie (ch. 89-475, L.O.F.), Santa Rosa (ch. 2002-385, L.O.F.), Sarasota (ch. 86-344, L.O.F.), and Seminole (ch. 77-653, 80-612, 88-451 and 97-376, L.O.F.) counties.

The Okeechobee County Sheriff's Office currently does not have a civil service system.¹

¹ The terms "civil service system" and "career service system" are used interchangeably.

Effect of Proposed Changes

HB 1161 creates a career service system for employees of the Okeechobee County Sheriff's Office. The bill provides for the application of the act to all full-time sworn and civilian persons employed by the sheriff. Specifically excluded from the provisions of the act are:

- the sheriff;
- the undersheriff;
- special deputies appointed pursuant to s. 30.09(4), F. S.;²
- members of the sheriff's reserve/auxiliary units; or
- persons appointed as part-time deputy sheriffs as defined by the Criminal Justice Standards and Training Commission, unless any such person also is employed full time by the sheriff.

The bill states that it is not the intent of the act to grant collective bargaining rights to persons in the employ of the Okeechobee County Sheriff's Office who do not otherwise have that right pursuant to law.³

When a covered employee has completed one calendar year of service,⁴ the employee attains permanent status in the Sheriff's Office;⁵ however, if an employee is placed on disciplinary probation for a period of six months or more, or is terminated and rehired at a later date, the employee is required to repeat this probationary period. Any employee who is required to serve a probationary period attendant to a promotion retains his or her permanent status, but may be returned to his or her prior rank during such probationary period without the right of appeal.

Once an employee has achieved career service status within the Sheriff's Office, he or she may only be suspended or dismissed for cause. Prior to any such action, the employee must be furnished with written notice and offered an opportunity to respond. In extraordinary situations, an employee may be suspended or dismissed immediately with notice provided within 24 hours or as soon as is practicable.

"Cause for suspension or dismissal" includes, but is not limited to:

- negligence;
- inefficiency or inability to perform assigned duties;
- insubordination;
- violation of provisions of law or office rules;
- conduct unbecoming a public employee;
- misconduct;
- alcohol abuse;
- prescription drug abuse, or illegal drug use;

² This section designates special deputy sheriffs appointed by the sheriff: (a) to attend elections on election days; (b) to perform undercover investigative work; (c) for specific guard or police duties in connection with public sporting or entertainment events, not to exceed 30 days; or for watch or guard duties, when serving in such capacity at specified locations or areas only; (d) for special and temporary duties, without power of arrest, in connection with guarding or transporting prisoners; (e) to aid in preserving law and order, or to give necessary assistance in the event of any threatened or actual hurricane, fire, flood or other natural disaster, or in the event of any major tragedy such as an act of local terrorism or a national terrorism alert, an airplane crash, a train or automobile wreck, or a similar accident; (f) to raise the power of the county, by calling bystanders or others, to assist in quelling a riot or any breach of the peace, when ordered by the sheriff or an authorized general deputy; (g) to serve as a parking enforcement specialist pursuant to s. 316.640(2), F.S.

³ Section 6, Art. I of the State Constitution grants public employees the right to collectively bargain. In 2003, the Florida Supreme Court held that deputy sheriffs were "employees" for purposes of this constitutional right. See, Coastal Florida Police Benevolent Association, Inc. v. Williams, 838 So.2d 543 (Fla. 2003).

⁴ All time of employment while in a Criminal Justice Standards and Training Commission-approved academy or other comparable training for certification as a sworn officer or deputy sheriff is not counted in determining whether an employee has attained one calendar year of minimum service.

⁵ All sworn and civilian persons in the employ of the sheriff on the effective date of the act who have served for a period of one calendar year or more are considered career service employees. All other employees achieve this status subject to the provisions of the act upon reaching their one-calendar-year service anniversary.

- adjudication of guilt by a court of competent jurisdiction;
- a plea of guilty or of nolo contendere; or
- a verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation with respect to any felony, misdemeanor or major traffic infraction charges.

When a newly elected or appointed sheriff assumes office, he or she is required to continue the employment of all career service personnel unless cause for dismissal exists. The sheriff has the right to replace persons serving in the rank of captain or above, including the executive secretary, with personnel of his or her choosing. The sheriff may offer these persons any position that the sheriff chooses, or to cease their employment with the department. Career service employees holding the rank of lieutenant may be reduced to the next lowest rank at the current maximum pay step.⁶ These actions are not appealable, nor are dismissals or demotions pursuant to across-the-board actions directed by the Okeechobee County Board of Commissioners, resulting from county fiscal impacts.

Ad hoc career service appeal boards are appointed for the purpose of hearing appeals arising from personnel actions which result in dismissal, suspension, demotion or reduction in pay. Lateral transfers, shift changes, oral or written reprimands, and suspensions of three working days or less (unless it is a subsequent such suspension within one calendar year) are not appealable. The scope of a career service appeal board is limited to disciplinary proceedings and termination actions. A career service appeal board has the authority to conduct hearings, and make findings of fact and recommendations to the sheriff. The board has no investigative powers.

A career service appeal board consists of three members of the Office of the Sheriff. The sheriff selects one member; the employee requesting the hearing selects another member; and these two individuals select a third member, who must hold the rank of lieutenant or above, to serve as chairperson. Each selected member is uncompensated, has the right to decline to serve, and must have no involvement with the issues under consideration.

A request for a hearing must be made in writing to the employee's immediate supervisor within 10 working days after notice of an appealable disciplinary action. The request must contain a brief statement of the matters to be considered by the board, and the name of the employee selected to be a board member. The supervisor is required to immediately forward the hearing request to the sheriff and the appropriate division commander. A career service appeal board must be impaneled and a hearing date scheduled by the sheriff within 10 working days after receipt of the request, unless this deadline is waived in writing by the employee. When summary discipline is imposed by any supervisor, the sheriff may order a career service appeal board to convene and review the action.

The employee and his or her representative has the right to be present during the hearing, and to offer any relevant evidence on the employee's behalf. During such hearings, the rules of evidence and civil or criminal rules of procedure are not applied. All witnesses must be notified in writing by the chairperson of the board, through the appropriate chain of command, of the date and time of the convening of the board. The board has the power to issue subpoenas upon request of any party or upon its own motion. Employees and their representatives have the opportunity to present evidence, conduct cross-examination, and submit rebuttal evidence.

The board must submit its written findings and recommendations to the sheriff within five days after the hearing. It may make any recommended disposition, including, but not limited to, oral or verbal reprimand, suspension, reduction of rank, termination of employment, sustention or reversal of the original decision, or recommendation of a more severe disposition. The sheriff is required to notify the employee of the decision of the career service appeal board. However, the sheriff has the right to make a final determination in the matter. In the event an employee is exonerated, he or she must be reinstated without prejudice or penalty.

⁶ While this action would constitute a "demotion," it would not be "disciplinary," and thus not appealable, as specified by the act.

No sworn or civilian employee of the Sheriff's Office may be discharged, disciplined, demoted, denied promotion or reassignment, or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, in retaliation for exercising the rights granted by the act.

The Sheriff is authorized to adopt such rules, regulations and procedures necessary for the administration and implementation of the act, although it is specified that nothing in the act may be construed as affecting the budget-making powers of the Okeechobee County Board of Commissioners.

The bill provides an effective date of upon becoming a law.

C. SECTION DIRECTORY:

Section 1: Provides for applicability of the act; permanent status of employees; cause for suspension or dismissal; transition of career service employees; and administration.

Section 2: Provides for career service appeal boards; creation; membership; and duties.

Section 3: Provides for status as permanent employees; and prohibits actions to circumvent act.

Section 4: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? January 18, 2006

WHERE? *The Okeechobee News*, a daily newspaper published in Okeechobee County, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

According to the Economic Impact Statement, the bill will have no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The Sheriff is authorized to adopt such rules, regulations and procedures necessary for the administration and implementation of the act, although it is specified that nothing in the act may be construed as affecting the budget-making powers of the Okeechobee County Board of Commissioners.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The Sponsor may want to amend the bill to clarify that a promoted employee is required to serve a probationary period for his or her new position; and that those serving in the rank of captain or above, and the executive secretary, are not employed in career service positions.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

The Okeechobee News

P.O. Box 639, Okeechobee, Florida 34973

(863) 763-3134

Published Daily

STATE OF FLORIDA
COUNTY OF OKEECHOBEE

Before the undersigned authority personally appeared
Judy Kasten, who on oath says she is Publisher of the Okeechobee
News, a DAILY Newspaper published at Okeechobee, in
Okeechobee County, Florida; that the attached copy of advertise-
ment, being a

Public Notice

ad # 109845

in the matter of

Notice of local legislation

**NOTICE OF LOCAL LEGISLATION
TO WHOM IT MAY CONCERN:**

Notice is hereby given of the Okeechobee County Sheriff's Office intent to apply to the 2006 Legislature for passage of an act relating to Okeechobee County providing for Career Service for the employees of the Okeechobee County Sheriff's Office; providing for application of the act; permanent status for employees; administration; providing for career service appeals board; providing severability; prohibiting certain actions to circumvent the act and providing an effective date.

Okeechobee County Sheriff's Office
504 NW 4th Street
Okeechobee, FL 34972
January 18, 2006
109845 ON 1/18/06

in the 19th Judicial District of the Circuit Court of Okeechobee
County, Florida, was published in said newspaper in the issues

January 18, 2006

Affiant further says that the said Okeechobee News is
a newspaper published at Okeechobee, in said Okeechobee
County, Florida, and that said newspaper has heretofore been
published continuously in said Okeechobee County, Florida
each week and has been entered as second class mail matter at
the post office in Okeechobee, in said Okeechobee County,
Florida, for a period of one year next preceding the first
publication of the attached copy of advertisement; and affiant
further says that she has neither paid nor promised any person,
firm or corporation any discount, rebate, commission or refund
for the purpose of securing this advertisement for publication in
the said newspaper.

Judy Kasten
Sworn to and subscribed before me this *18th*

day of *January* A.D. 20 *06*

Karmen R. Brown
Notary Public, State of Florida at Large



Karmen R. Brown
Commission #DD272118
Expires: Jan 17, 2008
Bonded Through
Atlantic Publishing Co., Inc.

| | | | | |
|---------------|------------------------------|---------------------------|------------|--------------------------|
| Client: | 760470 | OKEECHOBEE COUNTY SHERIFF | Phone: | (863) 763-3117 Ext: 0000 |
| Ad # | 109845 | Requested By: | Fax: | |
| Sales Rep.: | JANET LEVY - CLASSIFIED CTR. | | Phone: | |
| | jlevy@newszap.com | | Fax: | |
| Class.: | 5005 | Public Notice | | |
| Start Date: | 01/18/2006 | End Date: | 01/18/2006 | Nb. of Inserts: 1 |
| Publications: | Okeechobee News | | | |
| Total Price: | \$44.88 | | | |

Page 1 of 1

NOTICE OF LOCAL LEGISLATION
TO WHOM IT MAY CONCERN:

Notice is hereby given of the Okeechobee County Sheriff's Office intent to apply to the 2006 Legislature for passage of an act relating to Okeechobee County providing for Career Service for the employees of the Okeechobee County Sheriff's Office: providing for application of the act, permanent status for employees, administration, providing for career service appeals board, providing severability, prohibiting certain actions to circumvent the and providing an effective date.

Okeechobee County Sheriff's Office
504 NW 4th Street
Okeechobee, FL 34972
January 18, 2006

109845 ON 1/18/06

HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION

BILL #: _____
SPONSOR(S): Machek
RELATING TO: Okeechobee County Sheriff's Office
[Indicate Area Affected (City, County, Special District) and Subject]
NAME OF DELEGATION: Okeechobee
CONTACT PERSON: Victoria Nowlan, Legislative Assistant to Rep. Machek
PHONE # and E-MAIL 561-279-1633 victoria.nowlan@myfloridahouse.gov

I. House policy requires that three things occur before a Council or Committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the bill's purpose cannot be accomplished at the local level; (2) a local public hearing must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. Local bills will not be considered by a Council or Committee without a completed, original Local Bill Certification Form.

Does the delegation certify that the purpose of the bill cannot be accomplished locally?
YES ☒ NO ☐

Has a public hearing been held? YES ☒ NO ☐

Date hearing held: 31 January, 2006

Location: Okeechobee County Commission Chambers, Okeechobee, FL

Was this bill formally approved by a majority of the delegation members?
YES ☐ NO ☐ UNIT RULE ☐ UNANIMOUS ☐

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided in general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this Constitutional requirement been met?

Notice published: YES ☒ NO ☐ **Date:** _____

Where? _____ **County:** Okeechobee

Referendum in lieu of publication: YES ☐ NO ☒

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district; unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional requirement been met?
YES ☐ NO ☐ NOT APPLICABLE ☒

House policy requires that an Economic Impact Statement for Local Bills be prepared at the local level.

Frank Attkisson 1/31/06
Delegation Chair (Original Signature) Date

BILL #: _____

SPONSOR(S): Representative Richard Machek

RELATING TO: Okeechobee County

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

| | <u>FY 06-07</u> | <u>FY 07-08</u> |
|---------------|-----------------|-----------------|
| Expenditures: | No Cost | No Cost |

II. ANTICIPATED SOURCE(S) OF FUNDING:

| | <u>FY 06-07</u> | <u>FY 07-08</u> |
|----------|-----------------|-----------------|
| Federal: | No Cost | No Cost |
| State: | No Cost | No Cost |
| Local: | No Cost | No Cost |

III. ANTICIPATED NEW, INCREASED, OR DECREASE REVENUES

| | <u>FY 06-07</u> | <u>FY 07-08</u> |
|-----------|-----------------|-----------------|
| Revenues: | None | None |

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS OR GOVERNMENTS:

Advantages: Will provide no impact

Disadvantages: Will provide no impact

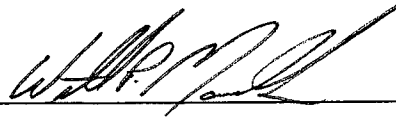
V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT.

Will provide no impact

VI. DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDE SOURCE OF DATA):

After speaking with the Okeechobee County Administrator there is no foreseen impact on the County.

PREPARED BY: _____

A handwritten signature in black ink, appearing to be 'W. P. [unclear]', written over a horizontal line.

01/31/06
Date

TITLE: LIEUTENANT

REPRESENTING: OKEECHOBEE COUNTY SHERIFF'S OFFICE

HB 1161

2006

1 A bill to be entitled

2 An act relating to Okeechobee County; providing for career
3 service for employees of the Okeechobee County Sheriff's
4 Office; providing for application of the act, permanent
5 status of employees, suspension or dismissal, transition
6 of career service employees, and administration; providing
7 for a procedure with respect to complaints against
8 employees; providing for ad hoc career service appeal
9 boards and membership and responsibilities thereof;
10 providing for a disciplinary procedure and for appeals;
11 providing for status as permanent employees; prohibiting
12 certain actions to circumvent the act; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Employees of the Okeechobee County Sheriff's
18 Office; applicability of the act; permanent status of employees;
19 administration.--

20 (1) APPLICABILITY.--The provisions of this act shall apply
21 to all full-time sworn and civilian persons in the employ of the
22 Okeechobee County Sheriff's Office. The provisions of this act
23 do not apply to the sheriff, undersheriff, special deputies
24 appointed pursuant to section 30.09(4), Florida Statutes,
25 members of the sheriff's reserve/auxiliary units, or persons
26 appointed as part-time deputy sheriffs as defined by the
27 Criminal Justice Standards and Training Commission, unless any
28 such person is also employed full time by the Okeechobee County

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2006

29 Sheriff's Office. As used in this act, the terms "employee,"
30 "employ," and "employment" refer to all persons, whether
31 employed or appointed, to whom the act applies. It is not,
32 however, the intent of this act to grant the right of collective
33 bargaining to persons in the employ of the Okeechobee County
34 Sheriff's Office who do not otherwise have that right pursuant
35 to law.

36 (2) PERMANENT STATUS; CAUSE FOR SUSPENSION OR DISMISSAL.--

37 (a)1. When an employee of the sheriff to whom the
38 provisions of this act apply has served in such employment for a
39 period of 1 calendar year, the employee shall have attained
40 permanent status in the Okeechobee County Sheriff's Office;
41 however, if an employee is placed on disciplinary probation for
42 a period of 6 months or more or is terminated and rehired at a
43 later date, the employee shall be required to complete 1
44 calendar year of service from the date of the disciplinary
45 action or rehire before being granted permanent status. The term
46 "career service employee" as used in this act means an employee
47 who has successfully completed his or her probationary period.

48 2. Any employee who is required to serve a probationary
49 period attendant to a promotion shall retain permanent status in
50 the Office of the Sheriff but may be returned to his or her
51 prior rank during such probationary period without the right of
52 appeal as provided in section 2. For the purpose of determining
53 career service status as defined in this act, all time in the
54 employment of the Office of the Sheriff while in a Criminal
55 Justice Standards and Training Commission-approved academy or
56 other comparable training for certification as a sworn officer

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2006

57 or deputy sheriff shall not be counted or considered in any
58 manner in determining whether the employee has attained 1
59 calendar year of minimum service.

60 (b) Any employee who has achieved career service status
61 with the Okeechobee County Sheriff's Office may only be
62 suspended or dismissed for cause, provided that, prior to such
63 action, the employee has been furnished written notice of the
64 proposed action and has been offered an opportunity to respond
65 to the reasons for the suspension or dismissal. In extraordinary
66 situations, however, such as when delay could result in damage
67 or injury to property or persons, an employee may be suspended
68 or dismissed immediately and then be provided notice thereof and
69 reasons therefor within 24 hours or as soon as is practicable if
70 circumstances surrounding such extraordinary situation make
71 notice within 24 hours impracticable. "Cause for suspension or
72 dismissal" includes, but is not limited to, negligence,
73 inefficiency or inability to perform assigned duties,
74 insubordination, violation of provisions of law or office rules,
75 conduct unbecoming a public employee, misconduct, alcohol abuse,
76 prescription drug abuse, or illegal drug use. "Cause for
77 suspension or dismissal" also includes, but is not limited to,
78 adjudication of guilt by a court of competent jurisdiction, a
79 plea of guilty or of nolo contendere, or a verdict of guilty
80 when adjudication of guilt is withheld and the accused is placed
81 on probation with respect to any felony, misdemeanor, or major
82 traffic infraction charges.

83 (3) TRANSITION OF CAREER SERVICE EMPLOYEES.--When a newly
84 elected or appointed sheriff assumes office, the new sheriff

HB 1161

2006

85 shall continue the employment of all currently employed career
 86 service personnel unless cause for dismissal, as provided in
 87 this section, exists. The sheriff shall have the right to
 88 replace persons serving in the rank of captain or above,
 89 including the executive secretary, with new personnel of the
 90 sheriff's choosing. The sheriff shall have the right to offer
 91 these persons any position that the sheriff chooses or to cease
 92 their employment with the department. The current employees
 93 holding the rank of lieutenant who are career service employees
 94 may be reduced to the next lowest rank at the current maximum
 95 pay step, which rank shall be permanent unless later reduced by
 96 disciplinary demotion or increased through subsequent promotion.
 97 Their regular base salaries may be reduced or increased
 98 accordingly. Actions taken pursuant to this subsection affecting
 99 the undersheriff, colonels, majors, directors, or their
 100 executive staff equivalents shall not be appealable under this
 101 act. Dismissals or demotions pursuant to across-the-board
 102 actions directed by the Okeechobee County Board of
 103 Commissioners, resulting from county fiscal impacts, shall not
 104 be appealable under the provisions of section 2.

105 (4) ADMINISTRATION.--The sheriff shall have full authority
 106 to adopt such rules, regulations, and procedures necessary for
 107 the administration and implementation of this act. However,
 108 nothing in this act shall be construed as affecting the budget-
 109 making powers of the Okeechobee County Board of Commissioners.

110 Section 2. Career service appeal boards; creation;
 111 membership; duties.--

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2006

112 (1) FUNCTION OF BOARDS.--Ad hoc career service appeal
113 boards shall be appointed as provided in this section for the
114 purpose of hearing appeals of career service employees arising
115 from personnel actions brought under the rules, regulations, or
116 policies of the Office of the Sheriff which result in dismissal,
117 suspension, demotion, or reduction in pay. Lateral transfers,
118 shift changes, oral or written reprimands, and suspensions of 3
119 working days or fewer shall not be appealable to a career
120 service appeal board. However, no more than one such suspension
121 may occur within 1 calendar year without the right to appeal.
122 The scope of a career service appeal board is limited to
123 disciplinary proceedings and termination actions. A career
124 service appeal board shall have the authority to conduct
125 hearings and make findings of fact and recommendations to the
126 sheriff. The sheriff shall not be bound by the findings or
127 recommendations of such boards but shall consider them in making
128 his or her final decision.

129 (2) MEMBERSHIP AND RESPONSIBILITY OF CAREER SERVICE APPEAL
130 BOARD.--

131 (a) A career service appeal board shall consist of three
132 members of the Office of the Sheriff. The sheriff shall select
133 one member; the employee requesting the hearing shall select one
134 member; and these two members shall select the third member, who
135 must hold the rank of lieutenant or above, to serve as
136 chairperson. Each selected member shall have the right to
137 decline to serve.

138 (b) All members of the career service appeal board shall
139 be selected on the basis of fairness, objectivity, and

HB 1161

2006

140 impartiality. The board shall have no investigative powers and
141 shall function in the capacity of a fact finder in an effort to
142 arrive at a fair and equitable recommendation in all matters
143 brought before it. Selected members shall have no involvement
144 with the issues under consideration. Membership of the board is
145 voluntary and is without remuneration. Members may not discuss
146 matters to be heard before the board until the board convenes
147 and then they may only discuss such matters during the
148 officially convened sessions of the board.

149 (c) The career service appeal board chairperson shall have
150 the responsibility to:

- 151 1. Chair all meetings using parliamentary rules of order.
- 152 2. Request that the employee provide the names of any
153 witnesses.
- 154 3. Schedule and provide written notification of all
155 meetings to the witnesses, board members, and the employee.
- 156 4. Provide copies of all charges to board members.
- 157 5. Ensure compliance with hearing procedures.

158 (3) PROCEDURE WITH RESPECT TO HEARINGS.--

159 (a) Any career service employee may request a hearing
160 before a career service appeal board for any appealable
161 disciplinary action of his or her superiors that adversely
162 affects his or her employment.

163 (b) A request for a hearing shall be made in writing to
164 the employee's immediate supervisor within 10 working days after
165 notice of appealable disciplinary action. The request shall
166 contain a brief statement of the matters to be considered by the
167 board and the name of the employee selected to be a member of

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168 the board.

169 (c) The immediate supervisor shall forward the hearing
170 request to the sheriff and the appropriate division commander
171 without delay. A career service appeal board shall be impaneled
172 and a hearing date scheduled by the sheriff within 10 working
173 days after receipt of the request for a hearing unless waived in
174 writing by the employee.

175 (d) The employee and his or her representative have the
176 right to be present and to present any relevant evidence on the
177 employee's behalf. During such hearings, the technical rules of
178 evidence shall not apply. Neither the employee nor his or her
179 representative may disrupt the proceedings. The qualification of
180 disruptive conduct shall be at the exclusive determination of
181 the chairperson of the career service appeal board.

182 (e) The employee shall not discuss the circumstances of
183 the matter being brought before the board except through the
184 chairperson.

185 (f) All witnesses shall be notified in writing by the
186 chairperson of the board, through the appropriate chain of
187 command, of the date and time of the convening of the career
188 service appeal board. Nonemployee witnesses may be called to
189 appear before the board only at the request of the board.

190 (g) The board shall have the power to issue subpoenas upon
191 request of any party or upon its own motion.

192 (4) CONDUCT OF HEARING.--

193 (a) Career service appeal boards are designed to determine
194 the truth while maintaining an atmosphere of fundamental
195 fairness and shall not be controlled by civil or criminal rules

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196 of procedure.

197 (b) Board members may receive verbal or written testimony
 198 concerning any matter considered relevant by the board. The
 199 board may review any record, including, but not limited to,
 200 performance evaluations and disciplinary files.

201 (c) Employees and their representatives shall have
 202 opportunity to present evidence, conduct cross-examination, and
 203 submit rebuttal evidence.

204 (5) FINDINGS AND RECOMMENDATIONS OF THE CAREER SERVICE
 205 APPEAL BOARD.--

206 (a) Each complaint shall receive a separate finding and
 207 recommendation by a majority of the board. Each finding shall
 208 consider the seriousness of the complaint, any extenuating
 209 circumstances, the tenure of the employee, and the employee's
 210 past conduct record. The board shall submit to the sheriff its
 211 written findings of fact and recommendations within 5 days after
 212 the hearing.

213 (b) The board may place before the sheriff any recommended
 214 disposition that the board believes may be of benefit to the
 215 Office of the Sheriff, including, but not limited to, oral or
 216 verbal reprimand, suspension, reduction of rank, termination of
 217 employment, sustention or reversal of the original decision, or
 218 recommendation of a more severe disposition.

219 (c) The sheriff shall review the findings and
 220 recommendations of the career service appeal board and may
 221 either approve or disapprove them. The sheriff has the sole
 222 discretion to overrule the findings of the board.

223 (d) The sheriff shall notify the employee of the final

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224 results of the career service appeal board and the reasons
225 therefor.

226 (e) In the event the employee is exonerated, the employee
227 shall be reinstated without prejudice or penalty.

228 (f) When summary discipline is imposed by any supervisor,
229 the sheriff may order a career service appeal board to convene
230 and review the action of the supervisor.

231 (g) All proceedings of the board shall be retained by the
232 Human Resources Department of the Office of the Sheriff.

233 (h) All associated reports, paperwork, and personnel
234 action taken as a result of the appeal shall be retained by the
235 Human Resources Department of the Office of the Sheriff.

236 Section 3. (1) All sworn and civilian persons in the
237 employ of the Okeechobee County Sheriff's Office on the
238 effective date of this act who have served for a period of 1
239 calendar year or more as of such date shall be permanent
240 employees subject to the provisions of this act. All other
241 employees shall become permanent employees subject to the
242 provisions of this act upon reaching their 1-calendar-year
243 service anniversary date.

244 (2) No sworn or civilian employee of the Okeechobee County
245 Sheriff's Office shall be discharged; disciplined; demoted;
246 denied promotion, transfer, or reassignment; or otherwise
247 discriminated against in regard to his or her employment or
248 appointment, or be threatened with any such treatment, by reason
249 of his or her exercise of the rights granted by this act.

250 Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1165 CS

Florida Retirement System

SPONSOR(S): Barreiro

TIED BILLS:

IDEN./SIM. BILLS: SB 2182

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|-----------------------|--------------------------|-------------------------|
| 1) <u>Governmental Operations Committee</u> | <u>6 Y, 0 N, w/CS</u> | <u>Mitchell</u> | <u>Williamson</u> |
| 2) <u>Local Government Council</u> | <u></u> | <u>DiVagno</u> <i>RD</i> | <u>Hamby</u> <i>120</i> |
| 3) <u>Fiscal Council</u> | <u></u> | <u></u> | <u></u> |
| 4) <u>State Administration Council</u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

Medical examiners and certain forensic employees were added to the Special Risk Class in 2005. This bill permits these medical examiners and forensic employees to purchase additional retirement credit to upgrade their previous service in the Florida Retirement System to Special Risk Class service. The bill requires the contributions for upgrading previous service to be equal to the difference in the contributions paid and the contribution rate in effect for the period being claimed, plus interest. The bill permits an employer to purchase upgraded credit on behalf of a member. The bill provides legislative findings and declares that it fulfills an important state interest.

This bill would take effect upon becoming law.

This bill does not appear to have a fiscal impact on the revenues of the state or local governments. Yet, this bill does appear to have a fiscal impact on the expenditures of the state and local governments. The additional costs from this bill, as a result of the unfunded liability to the Florida Retirement System, are estimated at \$87,000 for the state and \$222,000 for local governments in Fiscal Year 2007.

The bill appears to raise a constitutional issue because it is expected to create an unfunded liability for the Florida Retirement System which may violate the provisions of section 14, Article X of the Florida Constitution.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill increases the members of the Special Risk Class who may upgrade previous service to Special Risk Class service.

B. EFFECT OF PROPOSED CHANGES:

Background on the Florida Retirement System

Chapter 121, Florida Statutes, is the Florida Retirement System Act and it governs the Florida Retirement System (FRS). The FRS is administered by the secretary of the Department of Management Services through the Division of Retirement.¹

The FRS is the primary retirement plan for employees of state and county government agencies, district school boards, and community colleges and universities.² The FRS also has participating employees of 151 cities and 186 independent special districts who have elected to join the system.³

The FRS offers a defined benefit plan that provides retirement, disability, and death benefits for nearly 600,000 active members and over 270,000 retirees, surviving beneficiaries, and Deferred Retirement Option Program participants.⁴ Members of the FRS defined benefit plan belong to one of five membership classes:

| | | |
|--|-----------------|--------|
| Regular Class ⁵ | 570,888 members | 88.00% |
| Special Risk Class ⁶ | 68,466 members | 10.59% |
| Special Risk Administrative Support Class ⁷ | 80 members | 0.01% |
| Senior Management Service Class ⁸ | 6,823 members | 1.10% |
| Elected Officers Class ⁹ | 2,122 members | 0.30% |

Each class is separately funded through an employer contribution of a percentage of the gross compensation of the member based on the costs attributable to members of that class and as provided in chapter 121, Florida Statutes.¹⁰

Expansion of the Special Risk Class and Upgraded Service

The Special Risk Class of the FRS was created to recognize that certain employees, because of the nature of the work they perform,¹¹ may need to retire at an earlier age with less service than other types of employees.¹² The only employees originally in the Special Risk Class were law enforcement

¹ Fla. Stat. § 121.025 (2005).

² Fla. Dep't of Mgmt. Serv., Fla. Div. of Ret. at <http://www.frs.state.fl.us/> (last visited Jan. 11, 2006).

³ Fla. Dep't of Mgmt. Serv., Fla. Div. of Ret. at <http://www.frs.state.fl.us/> (last visited Jan. 11, 2006).

⁴ Fla. Dep't of Mgmt. Serv., Fla. Div. of Ret. at <http://www.frs.state.fl.us/> (last visited Jan. 11, 2006).

⁵ Fla. Stat. § 121.021(12) (2005).

⁶ Fla. Stat. § 121.0515 (2005).

⁷ Fla. Stat. § 121.0515(7) (2005).

⁸ Fla. Stat. § 121.055 (2005).

⁹ Fla. Stat. § 121.052 (2005).

¹⁰ See, e.g., Fla. Stat. 121.055(3)(a)1. (2005).

¹¹ Fla. Stat. § 121.0515(1) (2005) (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity).

¹² Fla. Stat. § 121.0515(1) (2005) (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity).

officers, correctional officers, and firefighters.¹³ Starting in 1999, however, the Legislature started dramatically expanding the Special Risk Class:

| | |
|------|--|
| 1999 | Emergency Medical Technicians and Paramedics ¹⁴ |
| 2000 | Community-Based Correctional Probation Officers ¹⁵ |
| | Twenty-four types of employees of correctional or forensic facilities or institutions ¹⁶ |
| 2001 | Youth Custody Officers ¹⁷ |
| 2005 | Employees of a law enforcement agency or a medical examiner's office who are employed in a forensic discipline ¹⁸ |

Another legislative trend has followed the dramatic expansion of the Special Risk Class: allowing members who have previous service in another class of the Florida Retirement System, usually the Regular Class, to purchase additional retirement credit to upgrade the previous service to Special Risk Class service. In 2001, the Legislature permitted emergency medical technicians and paramedics to purchase credit for upgraded service.¹⁹ In 2002, the Legislature allowed members whose responsibilities included fire prevention or fire fighting training to purchase credit for upgraded service.²⁰

Effect of Bill on Upgraded Service for Medical Examiners and Certain Forensic Employees

This bill permits medical examiners and certain forensic employees who were added to the Special Risk Class in 2005 to purchase additional retirement credit to upgrade previous service in the Florida Retirement System to Special Risk Class service.²¹ The bill requires the contributions for upgrading previous service to Special Risk Class service to be equal to the difference in the contributions paid and the contribution rate in effect for the period being claimed, plus interest at a rate of 6.5 percent a year, compounded annually until the date of payment. The bill permits an employer to purchase upgraded credit on behalf of a member. The bill provides legislative findings and declares that it fulfills an important state interest.

Constitutional Requirements for Retirement or Pension System Increases

Article X, section 14 of the Florida Constitution provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent

¹³ Ch. 78-308, Laws of Fla.

¹⁴ Ch. 99-392, Laws of Fla., § 23.

¹⁵ Ch. 2000-169, Laws of Fla. § 29.

¹⁶ Ch. 2000-169, Laws of Fla. § 29. (The following employees must spend at least 75 percent of their time performing duties which involve contact with patients or inmates to qualify for the Special Risk Class: dietitian; public health nutrition consultant; psychological specialist; psychologist; senior psychologist; regional mental health consultant; psychological services director-DCF; pharmacist; senior pharmacist (class codes 5248 and 5249); dentist; senior dentist; registered nurse; senior registered nurse; registered nurse specialist; clinical associate; advanced registered nurse practitioner; advanced registered nurse practitioner specialist; registered nurse supervisor; senior registered nurse supervisor; registered nursing consultant; quality management program supervisor; executive nursing director; speech and hearing therapist; and pharmacy manager.).

¹⁷ Ch. 2001-125, Laws of Fla., § 43.

¹⁸ Ch. 2005-167, Laws of Fla. § 1; codified as Fla. Stat. § 121.0515(2)(h) (2005) (The member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility; the forensic discipline must be recognized by the International Association for Identification and the member must qualify for active membership in the International Association for Identification). See also Int'l Ass'n for Identification at <http://www.theiai.org/> (last visited Mar. 27, 2006).

¹⁹ Ch. 2001-235, Laws of Fla., § 6.

²⁰ Ch. 2002-273, Laws of Fla., § 16.

²¹ Fla. HB 1165 (2006) (to the extent of the percentages of the member's average final compensation provided in section 121.091(1)(a)2, Florida Statutes).

provisions for funding the increase in benefits are made on a sound actuarial basis.²² *In its current form, without an appropriation, this bill does not appear to satisfy this constitutional requirement.*

This conclusion is based on a recent actuarial study on the costs to upgrade previous service of medical examiners and qualifying forensic employees:

The projected increase in actuarial liabilities is \$26.4 million offset by the projected cost the members would pay for the eligible service under this proposal of \$22.1 million, which results in the net additional unfunded liabilities of \$4.3 million.²³

The actuarial study further notes that this change will require an overall increase of 0.01 percent in the employer contribution rates for the Special Risk Class.²⁴

The actuarial study explains that this fiscal impact is, in part, a result of differences in benefit accrual rates and contribution rates for certain periods: Benefits now accrue at a rate of 3.0 percent per year for all periods after 1974; yet, contributions between 1978 and 1992 were only funded with contribution rates of 2.0 percent to 2.8 percent.²⁵ Thus, to the extent upgraded service includes this 1978 to 1992 period, there is a shortfall between the price paid by the upgrading members and the true estimated costs to the Florida Retirement System. In the actuarial study, it was assumed that any member for whom the cost to purchase an upgrade was greater than value of additional benefits would not elect to upgrade the eligible service, so they were excluded from the study.

C. SECTION DIRECTORY:

- Section 1: Amends section 121.0515, Florida Statutes, to permit medical examiners and certain forensic employees to purchase upgraded service in the Special Risk Class.
- Section 2: Provides legislative findings and declares that the bill fulfills an important state interest.
- Section 3: Provides that this bill takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill *does not* appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill appears to have a fiscal impact on state government expenditures. The unfunded liability to the Florida Retirement System from this bill is estimated to cost the state \$87,000 in Fiscal Year 2007.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill *does not* appear to have a fiscal impact on local government revenues.

²² Part VII of chapter 112, Florida Statutes, the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of article X, section 14 of the Florida Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. This part is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees which is funded in whole or in part by public funds.

²³ Milliman, Inc., Actuarial Study, Service Upgrade for Specified Forensic Workers (Mar. 17, 2006), at p. 4.

²⁴ Milliman, Inc., Actuarial Study, Service Upgrade for Specified Forensic Workers (Mar. 17, 2006), at p. 4.

²⁵ Milliman, Inc., Actuarial Study, Service Upgrade for Specified Forensic Workers (Mar. 17, 2006), at p. 4.

2. Expenditures:

This bill appears to have a fiscal impact on local government expenditures. The unfunded liability to the Florida Retirement System from this bill is estimated to cost local governments \$222,000 in Fiscal Year 2007.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill *does not* appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

The Department of Management Services provided the following fiscal note from the enrolled actuary regarding this bill:

The cost proposed by this bill to be paid by the affected members/employees to upgrade the service is not sufficient to pay for this kind of benefit enhancement. Any costs not covered by this pricing structure would be shifted to the system and could result in increased contribution rates for all special risk employers. HB 1165 does not provide a funding source for the additional costs of such an improvement of retirement benefits.²⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to reduce the percentage of a state tax shared with counties or municipalities. This bill does not appear to reduce the authority that municipalities have to raise revenue.

This bill may, however, require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. Because the bill provides that it fulfills an important state interest and the expenditures required by the bill appear to apply to all persons similarly situated, including the state and local governments, the bill appears to satisfy the requirements of section 18 of article VII of the Florida Constitution.²⁷

2. Other:

Article X, Section 14

As previously discussed, benefit increases to public retirement or pension systems may not be made unless funding is concurrently provided for the increase. This bill does not appear to provide sufficient funding for the proposed benefits increase.

²⁶ Fla. Dep't of Mgmt. Serv., HB 1165 (2006) Substantive Bill Analysis (Mar. 20, 2006) (on file with dep't).

²⁷ Section 18 of article VII of the Florida Constitution provides that counties and municipalities may not be bound by a general law requiring a county or municipality to spend funds or take an action requiring the expenditure of funds unless it fulfills an important state interest and one of five criteria is met: (1) funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; (2) the legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality; (3) the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; (4) the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or (5) the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue: Calculation or Funding

To address the expected unfunded liability and its potential constitutional issues, the sponsor may wish to consider changing the manner in which the upgraded credit is calculated²⁸ or providing a funding source.

Drafting Issue: Limited Timeframe

Because the costs of this bill increase for both the employee and the Florida Retirement System for each year in which an employee delays purchase, the sponsor may wish to consider limiting the timeframe in which an employee may avail himself or herself of its provisions.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2006, the Governmental Operations Committee adopted an amendment and reported the bill favorably with committee substitute:

- Amendment 1 provided legislative findings and declared that the bill fulfilled an important state interest.

²⁸ For example, the following language appears to mitigate most of the unfunded liability: "Contributions for upgrading such service shall be equal to the difference in the contributions paid and the Special Risk contribution rate in effect on the effective date of this bill, plus interest thereon at the rate of 6.5 percent a year, compounded annually until the date of payment."

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CHAMBER ACTION

1 The Governmental Operations Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the Florida Retirement System; amending
7 s. 121.0515, F.S.; authorizing certain members to purchase
8 additional retirement credit to upgrade prior service to
9 Special Risk Class service; providing for the calculation
10 of contributions for such service upgrade; authorizing the
11 employer to purchase such additional credit for the
12 member; providing a declaration of important state
13 interest; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Paragraph (c) is added to subsection (9) of
18 section 121.0515, Florida Statutes, to read:

19 121.0515 Special risk membership.--

20 (9) CREDIT FOR UPGRADED SERVICE.--

21 (c) Any member of the Special Risk Class who has earned
22 creditable service in another membership class of the Florida
23 Retirement System as a medical examiner or as an employee of a

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24 law enforcement agency in a forensic discipline as described in
25 paragraph (2)(h), which service is within the purview of the
26 Special Risk Class, may purchase additional retirement credit to
27 upgrade such service to Special Risk Class service, to the
28 extent of the percentages of the member's average final
29 compensation provided in s. 121.091(1)(a)2. Contributions for
30 upgrading such service to Special Risk Class credit under this
31 subsection shall be equal to the difference in the contributions
32 paid and the Special Risk Class contribution rate as a
33 percentage of gross salary in effect for the period being
34 claimed, plus interest thereon at the rate of 6.5 percent a
35 year, compounded annually until the date of payment. This
36 service credit may be purchased by the employer on behalf of the
37 member.

38 Section 2. The Legislature finds that a proper and
39 legitimate state purpose is served when employees and retirees
40 of the state and its political subdivisions, and the dependents,
41 survivors, and beneficiaries of such employees and retirees, are
42 extended additional protections afforded by governmental
43 retirement systems. These persons must be provided benefits that
44 are fair and adequate and that are managed, administered, and
45 funded in a sound actuarial manner, as required by Section 14,
46 Article X of the State Constitution and part VII of chapter 112,
47 Florida Statutes. Therefore, the Legislature hereby determines
48 and declares that this act fulfills an important state interest.

49 Section 3. This act shall take effect upon becoming a law.

PLEASE NOTE

**ANALYSIS FOR HB 1245
WILL BE AVAILABLE LATER**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1251 CS Firefighter and Municipal Police Pensions
SPONSOR(S): Davis and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2028

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|-----------------------|--------------------------|-------------------------|
| 1) <u>Governmental Operations Committee</u> | <u>6 Y, 0 N, w/CS</u> | <u>Mitchell</u> | <u>Williamson</u> |
| 2) <u>Local Government Council</u> | <u></u> | <u>DiVagno</u> <i>RD</i> | <u>Hamby</u> <i>12C</i> |
| 3) <u>Fiscal Council</u> | <u></u> | <u></u> | <u></u> |
| 4) <u>State Administration Council</u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

This bill amends the Marvin B. Clayton Firefighters Pension Trust Fund Act and the Marvin B. Clayton Police Officers Pension Trust Fund Act:

- Allows the terms of office for members of the boards of trustees to be increased, from two years to four years, by municipal ordinance, special act of the Legislature, or resolution;
- Adds specific fiduciary standards for executing the general powers and duties of the board of trustees;
- Increases the percentage of plan assets that the boards of trustees may invest in foreign securities to the same level as the State Board of Administration; and
- Permits boards of trustees to designate two individuals, other than the chair and the secretary, to sign drafts on accounts and subjects these individuals to the same fiduciary standards as required for the board of trustees.

The bill also expands the definition of firefighter to include supervisory and command personnel in the Marvin B. Clayton Firefighters Pension Trust Fund Act.

Although this bill does not appear to specifically create, modify, or eliminate rulemaking authority, the bill may require changes in the rules, regulations, resolutions, and ordinances which govern police officer and firefighter pension boards for local governments.

The bill provides an effective date of July 1, 2006, unless otherwise expressly provided for in the act.

This bill does not appear to have a fiscal impact on state government revenues or expenditures. This bill does not appear to have a fiscal impact on local government revenues or expenditures, but may create some compliance costs for the municipal and special district pension boards.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill permits increased terms of office, increases authorized investments in foreign securities, and authorizes additional signatories for the boards of trustees of the pension trust funds.

B. EFFECT OF PROPOSED CHANGES:

Background on Municipal and Special District Firefighter Pensions

Firefighters working for municipalities or special districts that have a constituted fire department or an authorized volunteer fire department,¹ which owns and uses equipment for fighting fires that was in compliance with National Fire Protection Association Standards for Automotive Fire Apparatus at the time of purchase,² have pension plans pursuant to chapter 175, Florida Statutes. Chapter 175, Florida Statutes, is the Marvin B. Clayton Firefighters Pension Trust Fund Act ("Firefighters PTFA").³ The Firefighters PTFA sets forth the minimum benefits and minimum standards for municipal and special district firefighter pension plans. There currently are 20 special fire control districts and 159 municipalities that have established plans pursuant to the Firefighters PTFA.⁴ These plans had revenues of approximately \$66,319,992 in 2004; \$5,096,380 of those revenues were generated by special fire control districts.⁵

Background on Municipal Police Officer Pensions

Police officers⁶ working for municipalities with a regularly organized police department, which uses equipment in serviceable condition with a value exceeding \$500 for the prevention of crime and for the preservation of life and property, have pension plans pursuant to chapter 185, Florida Statutes. Chapter 185, Florida Statutes is the Marvin B. Clayton Police Officers Pension Trust Fund Act ("Police Officer PTFA"). The Police Officer PTFA sets forth the minimum benefits and minimum standards for municipal police officer pension plans.

Similarities between the Acts

The Firefighter PTFA and the Police Officer PTFA have a number of provisions which mirror each other. For example, both the Firefighter PTFA and the Police Officer PTFA provide the following sources of funding for pension trust funds:

- Payment from the "premium tax" - the net proceeds of the excise tax upon insurance companies, insurance associations, or other property insurers on their gross receipts on premiums from holders of certain policies within the legal boundaries of the municipality or special district;
- Payment of a designated percentage deducted from the salary of each firefighter or police officer;
- Payment of all fines and forfeitures imposed and collected from the violation of any rule and regulation promulgated by the board of trustees;

¹ Fla. Stat. § 175.041(1) (2005).

² Fla. Stat. § 175.041(2) (2005).

³ Fla. Stat. § 175.025 (2005).

⁴ Dep't of Mgmt. Serv., HB 381 (2006) Staff Analysis (Nov. 25, 2005) (on file with dep't).

⁵ *Id.*

⁶ Fla. Stat. § 185.02(11) (2005).

- Mandatory payment of the normal cost of and the amount required to fund any actuarial deficiency shown by an actuarial valuation as provided in part VII of chapter 112, Florida Statutes;
- All gifts, bequests, and devises when donated;
- All increases in the fund by way of interest or dividends on bank deposits; and
- All other sources or income authorized by law for the augmentation of such pension trust funds.⁷

The Firefighter PTFA and the Police Officer PTFA also provide for governance by a board of trustees consisting of five members: two members who are legal residents of the special district or municipality and are appointed by its legislative body; two members who are full-time firefighters or police officers elected by a majority of the active firefighters or police officers who are members of such plan; a fifth member who must be chosen by a majority of the other four members.⁸ This board of trustees must meet quarterly.⁹

Among the powers of these board of trustees: invest and reinvest the assets of the firefighter pension fund in certain authorized investments, issue drafts, keep required records, retain a qualified independent consultant every three years, and employ legal counsel, independent actuaries, and other advisors.¹⁰

Both the Firefighter PTFA and the Police Officer PTFA provide requirements for the retirement,¹¹ disability,¹² death,¹³ and presumed injuries¹⁴ of firefighters and police officers under the plan.

The Division of Retirement is responsible for the daily oversight and monitoring of any firefighter or police officer pension plan under the Firefighter PTFA and the Police Officer PTFA.¹⁵ Actuarial deficits are not, however, obligations of the State of Florida.¹⁶

Changes to Board of Trustee Terms

Currently each member of the board of trustee serves two years and may succeed themselves. This bill provides the option to change the period of the terms to four years by a municipal ordinance, special act of the Legislature, or resolution adopted by the governing body of the special fire control district.

Express Fiduciary Responsibilities

As this is not explicitly stated within these chapters, this bill provides that boards of trustees under the Firefighter PTFA and the Police Officer PTFA are expressly subject to certain fiduciary standards¹⁷ in the exercise of their general powers and duties.

⁷ Fla. Stat. §§ 175.091 and 185.07 (2005).

⁸ Fla. Stat. § 175.061(1) (2005) (The membership of the board of trustees for a chapter plan shall consist of five members, two of whom, unless otherwise prohibited by law, shall be legal residents of the municipality or special fire control district, who shall be appointed by the governing body of the municipality or special fire control district, and two of whom shall be full-time firefighters as defined in s. 175.032 who shall be elected by a majority of the active firefighters who are members of such plan. With respect to any chapter plan or local law plan that, on January 1, 1997, allowed retired firefighters to vote in such elections, retirees may continue to vote in such elections. The fifth member shall be chosen by a majority of the previous four members as provided for herein, and such person's name shall be submitted to the governing body of the municipality or special fire control district.). Fla. Stat. § 185.05 (2005).

⁹ Fla. Stat. §§ 175.061(3) and 185.05(3) (2005).

¹⁰ Fla. Stat. §§ 175.071 and 185.06 (2005).

¹¹ Fla. Stat. §§ 175.162 and 185.16 (2005).

¹² Fla. Stat. §§ 175.191 and 185.18 (2005).

¹³ Fla. Stat. §§ 175.201 and 185.21 (2005).

¹⁴ Fla. Stat. § 175.231 (2005) (Conditions or impairment of health of a firefighter caused by tuberculosis, hypertension, or heart disease resulting in total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty after passing a physical examination and subject to rebuttal); Fla. Stat. § 185.34 (2005).

¹⁵ Fla. Stat. §§ 175.341 and 185.23 (2005).

¹⁶ Fla. Stat. §§ 175.051 and 185.04 (2005).

¹⁷ Fla. Stat. §§ 112.656 (fiduciaries and retirement systems), 112.611 (requiring compliance with the fiduciary standards set forth in the Employee Retirement Income Security Act of 1974), 112.311 to 112.3187 (Code of Ethics), and 518.11 (prudent investor rule) (2005).

Changes to the Authorized Investments

The Firefighter PTFA and the Police Officer PTFA each provide five authorized investments and reinvestments:¹⁸

1. Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund, or a savings, building, and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.
2. Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States.
3. Bonds issued by the State of Israel.
4. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia.¹⁹
5. Foreign securities not to exceed 10 percent of plan assets.

Boards of trustees may, however, request a variance from these authorized investments through a municipal ordinance, special act of the Legislature, or resolution by the governing body of the special fire control district. In addition, where a special act, or a municipal ordinance, adopted prior to July 1, 1998, permits greater than a 50-percent equity investment, these municipalities are not required to comply with the aggregate equity investment provisions.

This bill increases the percentage of plan assets that the boards of trustees may invest in foreign securities to the same level as the State Board of Administration.²⁰

Changes to Draft Authority

Currently, in order to issue drafts upon the pension trust funds, the drafts must be consecutively numbered, signed by the chair and secretary, and state the purpose for the drafts. This bill will allow two individuals who are subject to the same fiduciary standards as required for the boards of trustees and who are designated by the board to sign drafts.

Changes Affecting Only the Firefighter PTFA

Section 175.032, Florida Statutes, provides the definitions for the Firefighters PTFA, including a definition for "firefighter." This bill expands the definition of firefighter to include all certified supervisory and command personnel whose duties include the supervision, training, guidance, and management responsibilities of full-time firefighters, part-time firefighters, or auxiliary firefighters, but does not include part-time firefighters or auxiliary firefighters. This is similar to a provision in the Police Officers PTFA in section 185.02(11), Florida Statutes.

¹⁸ Fla. Stat. §§ 175.071 and 185.06 (2005).

¹⁹ *Id.* (The corporation must be listed on any one or more of the recognized national stock exchanges or on the National Market System of the NASDAQ Stock Market and, in the case of bonds only, holds a rating in one of the three highest classifications by a major rating service. These investments may not exceed more than five percent of the assets of the board of trustees in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed five percent of the outstanding capital stock of that company or the aggregate of its investments under this subparagraph at cost exceed 50 percent of the assets of the fund.).

²⁰ Fla. Stat. § 215.47(5) (2005) (currently sets this level at 20 percent); *but see* HB 7155 (2005) (which increases this percentage to 25 percent). The bill has a contingent effective date to permit the percentage to be set at 25 percent should HB 7155 become law. HB 1251 CS (2005), § 9.

C. SECTION DIRECTORY:

- Section 1: Amends section 175.032, Florida Statutes, to expand the definition of firefighter.
- Section 2: Amends section 175.061, Florida Statutes, to provide the option to change the terms of office for the boards of trustees.
- Section 3: Amends section 175.071, Florida Statutes, to contingently expand the fiduciary standards, percent of plan assets in foreign securities to 25 percent, and drafting authority.
- Section 4: Amends section 175.071, Florida Statutes, to contingently expand the fiduciary standards, percent of plan assets in foreign securities to 20 percent, and drafting authority.
- Section 5: Amends section 185.05, Florida Statutes, to provide the option to change the terms of office for the boards of trustees.
- Section 6: Amends section 185.06, Florida Statutes, to contingently expand the fiduciary standards, percent of plan assets in foreign securities to 25 percent, and drafting authority.
- Section 7: Amends section 185.06, Florida Statutes, to contingently expand the fiduciary standards, percent of plan assets in foreign securities to 20 percent, and drafting authority.
- Section 8: Sets forth a severability clause.
- Section 9: Provides an effective date of July 1, 2006 for sections 1, 2, 5, and 8; provides a contingent effective date of July 1, 2006, for either sections 3 and 6 or 4 and 7.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There does not appear to be a fiscal impact on state government revenues.

2. Expenditures:

There does not appear to be a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There does not appear to be a fiscal impact on local government revenues.

2. Expenditures:

There does not appear to be fiscal impact on local government expenditures. The bill, however, may create some compliance costs for the municipal and special district pension boards.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The expanded investment authority of the municipal and special district pension boards may have a positive, direct impact on the private sector.

D. FISCAL COMMENTS:

The Department of Management Services provided a fiscal note from the enrolled actuary regarding this bill: "There are no actuarial or benefit issues associated with this bill."²¹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require municipalities or counties to spend funds or to take an action requiring the expenditure of funds. This bill does not appear to reduce the percentage of a state tax shared with municipalities or counties. This bill does not appear to reduce the authority that municipalities or counties have to raise revenue.

2. Other:

Article X, section 14 of the Florida Constitution provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis. Since this bill does not directly increase benefits, this constitutional requirement does not apply. The Department of Management Services reached the same conclusion.²²

B. RULE-MAKING AUTHORITY:

Although this bill does not appear to specifically create, modify, or eliminate rulemaking authority, the bill will require changes in the rules, regulations, resolutions, and ordinances which govern police officer and firefighter pension boards for local governments.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Two Designated Signatories for Drafts

The Division of Retirement within the Department of Management Services, which is responsible for the daily oversight and monitoring for actuarial soundness, made the following comments on the provision allowing the board to designate two individuals to sign disbursements from the trust fund:

The proposal appears to erode the responsibility and direction of the board of trustees. No criteria are established for the selection of these two individuals and no fiduciary designation is required. While it is not clear why this amendment is needed, if it is maintained in the proposal, it is suggested that additional language be added to require the designated individuals to be considered 'fiduciaries' to the plan.²³

While the committee substitute does subject these two designated individuals to the same fiduciary standard as required for the board of trustees, the other comments still appear to raise valid issues which the sponsor of the bill may wish to address.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2006, the Governmental Operations Committee adopted a "strike-everything" amendment and reported the bill favorably with committee substitute:

²¹ Fla. Dep't of Mgmt. Serv., HB 1251 (2006) Substantive Bill Analysis (Mar. 24, 2006) (on file with dep't).

²² *Id.*

²³ *Id.* at 6.

- Increases, from two years to four years, the terms of office for members of the boards of trustees if provided by municipal ordinance, special act of the Legislature, or resolution of the special fire control district;
- Expands the specific fiduciary standards for executing the general powers and duties of the board of trustees;
- Removes the provisions that would have mirrored the investment authority of the State Board of Administration and instead only increases from 10 percent to 20 or 25 percent, depending on other legislation being considered by the Legislature, the amount of plan assets which boards of trustees may invest in foreign securities;
- Continues to allow boards of trustees to designate two individuals, other than the chair and the secretary, to sign drafts on accounts, but subjects them to the same fiduciary standards as the boards of trustees; and
- Removes provisions that would have allowed boards of trustees to establish a maximum entrance age.

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CHAMBER ACTION

The Governmental Operations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to firefighter and municipal police pensions; amending s. 175.032, F.S.; revising the definition of "firefighter"; amending s. 175.061, F.S.; providing for the terms of service for the board of trustees of the firefighters' pension trust fund to be revised under certain circumstances; amending s. 175.071, F.S.; requiring the board of trustees to perform its powers subject to certain fiduciary standards and ethics provisions; revising the percentage of assets of the firefighters' pension trust fund that the board of trustees may invest in foreign securities; authorizing two individuals subject to certain fiduciary standards and designated by the board to sign drafts issued upon the firefighters' pension trust fund; amending s. 185.05, F.S.; providing for the terms of service for the board of trustees of the municipal police officers' retirement trust fund to be revised under certain circumstances; amending s. 185.06, F.S.; requiring the board of trustees

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to perform its powers subject to certain fiduciary standards and ethics provisions; revising the percentage of assets of the municipal police officers' retirement trust fund that the board of trustees may invest in foreign securities; authorizing two individuals subject to certain fiduciary standards and designated by the board to sign drafts issued upon the municipal police officers' retirement trust fund; providing for severability; providing contingent effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (8) of section 175.032, Florida Statutes, is amended to read:

175.032 Definitions.--For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the following words and phrases have the following meanings:

(8) (a) "Firefighter" means any person employed solely by a constituted fire department of any municipality or special fire control district who is certified as a firefighter as a condition of employment in accordance with the provisions of s. 633.35 and whose duty it is to extinguish fires, to protect life, or to protect property. "Firefighter" includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time

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52 firefighters, part-time firefighters, or auxiliary firefighters,
53 but does not include part-time firefighters or auxiliary
54 firefighters. However, for purposes of this chapter only,
55 "firefighter" also includes public safety officers who are
56 responsible for performing both police and fire services, who
57 are certified as police officers or firefighters, and who are
58 certified by their employers to the Chief Financial Officer as
59 participating in this chapter prior to October 1, 1979.

60 Effective October 1, 1979, public safety officers who have not
61 been certified as participating in this chapter shall be
62 considered police officers for retirement purposes and shall be
63 eligible to participate in chapter 185. Any plan may provide
64 that the fire chief shall have an option to participate, or not,
65 in that plan.

66 Section 2. Paragraph (a) of subsection (1) of section
67 175.061, Florida Statutes, is amended to read:

68 175.061 Board of trustees; members; terms of office;
69 meetings; legal entity; costs; attorney's fees.--For any
70 municipality, special fire control district, chapter plan, local
71 law municipality, local law special fire control district, or
72 local law plan under this chapter:

73 (1) In each municipality and in each special fire control
74 district there is hereby created a board of trustees of the
75 firefighters' pension trust fund, which shall be solely
76 responsible for administering the trust fund. Effective October
77 1, 1986, and thereafter:

78 (a) The membership of the board of trustees for a chapter
79 plan shall consist of five members, two of whom, unless

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80 otherwise prohibited by law, shall be legal residents of the
81 municipality or special fire control district, who shall be
82 appointed by the governing body of the municipality or special
83 fire control district, and two of whom shall be full-time
84 firefighters as defined in s. 175.032 who shall be elected by a
85 majority of the active firefighters who are members of such
86 plan. With respect to any chapter plan or local law plan that,
87 on January 1, 1997, allowed retired firefighters to vote in such
88 elections, retirees may continue to vote in such elections. The
89 fifth member shall be chosen by a majority of the previous four
90 members as provided for herein, and such person's name shall be
91 submitted to the governing body of the municipality or special
92 fire control district. Upon receipt of the fifth person's name,
93 the governing body of the municipality or special fire control
94 district shall, as a ministerial duty, appoint such person to
95 the board of trustees as its fifth member. The fifth member
96 shall have the same rights as each of the other four members
97 appointed or elected as herein provided, shall serve as trustee
98 for a period of 2 years, and may succeed himself or herself in
99 office. Each resident member shall serve as trustee for a period
100 of 2 years, unless sooner replaced by the governing body at
101 whose pleasure he or she shall serve, and may succeed himself or
102 herself as a trustee. Each firefighter member shall serve as
103 trustee for a period of 2 years, unless he or she sooner leaves
104 the employment of the municipality or special fire control
105 district as a firefighter, whereupon a successor shall be chosen
106 in the same manner as an original appointment. Each firefighter
107 may succeed himself or herself in office. Effective July 1,

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108 2006, the terms of office of the appointed and elected members
109 of the board may be amended by municipal ordinance, special act
110 of the Legislature, or resolution adopted by the governing body
111 of the special fire control district, to extend the terms of
112 office from 2 years to 4 years. The length of the terms of
113 office shall be the same for all board members.

114 Section 3. Effective July 1, 2006, if House Bill 7155 or
115 similar legislation is adopted in the same legislative session
116 or an extension thereof and becomes law, subsection (1) of
117 section 175.071, Florida Statutes, is amended to read:

118 175.071 General powers and duties of board of
119 trustees.--For any municipality, special fire control district,
120 chapter plan, local law municipality, local law special fire
121 control district, or local law plan under this chapter:

122 (1) The board of trustees, subject to the fiduciary
123 standards in ss. 112.656, 112.661, and 518.11 and the Code of
124 Ethics in ss. 112.311-112.3187, may:

125 (a) Invest and reinvest the assets of the firefighters'
126 pension trust fund in annuity and life insurance contracts of
127 life insurance companies in amounts sufficient to provide, in
128 whole or in part, the benefits to which all of the participants
129 in the firefighters' pension trust fund shall be entitled under
130 the provisions of this chapter and pay the initial and
131 subsequent premiums thereon.

132 (b) Invest and reinvest the assets of the firefighters'
133 pension trust fund in:

134 1. Time or savings accounts of a national bank, a state
135 bank insured by the Bank Insurance Fund, or a savings, building,

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136 and loan association insured by the Savings Association
137 Insurance Fund which is administered by the Federal Deposit
138 Insurance Corporation or a state or federal chartered credit
139 union whose share accounts are insured by the National Credit
140 Union Share Insurance Fund.

141 2. Obligations of the United States or obligations
142 guaranteed as to principal and interest by the government of the
143 United States.

144 3. Bonds issued by the State of Israel.

145 4. Bonds, stocks, or other evidences of indebtedness
146 issued or guaranteed by a corporation organized under the laws
147 of the United States, any state or organized territory of the
148 United States, or the District of Columbia, provided:

149 a. The corporation is listed on any one or more of the
150 recognized national stock exchanges or on the National Market
151 System of the NASDAQ Stock Market and, in the case of bonds
152 only, holds a rating in one of the three highest classifications
153 by a major rating service; and

154 b. The board of trustees shall not invest more than 5
155 percent of its assets in the common stock or capital stock of
156 any one issuing company, nor shall the aggregate investment in
157 any one issuing company exceed 5 percent of the outstanding
158 capital stock of that company or the aggregate of its
159 investments under this subparagraph at cost exceed 50 percent of
160 the assets of the fund.

161
162 This paragraph shall apply to all boards of trustees and
163 participants. However, in the event that a municipality or

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164 special fire control district has a duly enacted pension plan
165 pursuant to, and in compliance with, s. 175.351, and the
166 trustees thereof desire to vary the investment procedures
167 herein, the trustees of such plan shall request a variance of
168 the investment procedures as outlined herein only through a
169 municipal ordinance, special act of the Legislature, or
170 resolution by the governing body of the special fire control
171 district; where a special act, or a municipality by ordinance
172 adopted prior to July 1, 1998, permits a greater than 50-percent
173 equity investment, such municipality shall not be required to
174 comply with the aggregate equity investment provisions of this
175 paragraph. Notwithstanding any other provision of law to the
176 contrary, nothing in this section may be construed to take away
177 any preexisting legal authority to make equity investments that
178 exceed the requirements of this paragraph. The board of trustees
179 may invest up to 25 ~~10~~ percent of plan assets in foreign
180 securities.

181 (c) Issue drafts upon the firefighters' pension trust fund
182 pursuant to this act and rules and regulations prescribed by the
183 board of trustees. All such drafts shall be consecutively
184 numbered, be signed by the chair and secretary or two
185 individuals designated by the board who are subject to the same
186 fiduciary standards as required for the board of trustees under
187 this subsection, and state upon their faces the purpose for
188 which the drafts are drawn. The treasurer or depository of each
189 municipality or special fire control district shall retain such
190 drafts when paid, as permanent vouchers for disbursements made,
191 and no money shall be otherwise drawn from the fund.

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(d) Convert into cash any securities of the fund.

(e) Keep a complete record of all receipts and disbursements and of the board's acts and proceedings.

Section 4. Effective July 1, 2006, if House Bill 7155 or similar legislation is not adopted in the same legislative session or an extension thereof, subsection (1) of section 175.071, Florida Statutes, is amended to read:

175.071 General powers and duties of board of trustees.--For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) The board of trustees, subject to the fiduciary standards in ss. 112.656, 112.661, and 518.11 and the Code of Ethics in ss. 112.311-112.3187, may:

(a) Invest and reinvest the assets of the firefighters' pension trust fund in annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the firefighters' pension trust fund shall be entitled under the provisions of this chapter and pay the initial and subsequent premiums thereon.

(b) Invest and reinvest the assets of the firefighters' pension trust fund in:

1. Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund, or a savings, building, and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit

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220 union whose share accounts are insured by the National Credit
221 Union Share Insurance Fund.

222 2. Obligations of the United States or obligations
223 guaranteed as to principal and interest by the government of the
224 United States.

225 3. Bonds issued by the State of Israel.

226 4. Bonds, stocks, or other evidences of indebtedness
227 issued or guaranteed by a corporation organized under the laws
228 of the United States, any state or organized territory of the
229 United States, or the District of Columbia, provided:

230 a. The corporation is listed on any one or more of the
231 recognized national stock exchanges or on the National Market
232 System of the NASDAQ Stock Market and, in the case of bonds
233 only, holds a rating in one of the three highest classifications
234 by a major rating service; and

235 b. The board of trustees shall not invest more than 5
236 percent of its assets in the common stock or capital stock of
237 any one issuing company, nor shall the aggregate investment in
238 any one issuing company exceed 5 percent of the outstanding
239 capital stock of that company or the aggregate of its
240 investments under this subparagraph at cost exceed 50 percent of
241 the assets of the fund.

242

243 This paragraph shall apply to all boards of trustees and
244 participants. However, in the event that a municipality or
245 special fire control district has a duly enacted pension plan
246 pursuant to, and in compliance with, s. 175.351, and the
247 trustees thereof desire to vary the investment procedures

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248 herein, the trustees of such plan shall request a variance of
249 the investment procedures as outlined herein only through a
250 municipal ordinance, special act of the Legislature, or
251 resolution by the governing body of the special fire control
252 district; where a special act, or a municipality by ordinance
253 adopted prior to July 1, 1998, permits a greater than 50-percent
254 equity investment, such municipality shall not be required to
255 comply with the aggregate equity investment provisions of this
256 paragraph. Notwithstanding any other provision of law to the
257 contrary, nothing in this section may be construed to take away
258 any preexisting legal authority to make equity investments that
259 exceed the requirements of this paragraph. The board of trustees
260 may invest up to 20 ~~10~~ percent of plan assets in foreign
261 securities.

262 (c) Issue drafts upon the firefighters' pension trust fund
263 pursuant to this act and rules and regulations prescribed by the
264 board of trustees. All such drafts shall be consecutively
265 numbered, be signed by the chair and secretary or two
266 individuals designated by the board who are subject to the same
267 fiduciary standards as required for the board of trustees under
268 this subsection, and state upon their faces the purpose for
269 which the drafts are drawn. The treasurer or depository of each
270 municipality or special fire control district shall retain such
271 drafts when paid, as permanent vouchers for disbursements made,
272 and no money shall be otherwise drawn from the fund.

273 (d) Convert into cash any securities of the fund.

274 (e) Keep a complete record of all receipts and
275 disbursements and of the board's acts and proceedings.

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276 Section 5. Paragraph (a) of subsection (1) of section
277 185.05, Florida Statutes, is amended to read:

278 185.05 Board of trustees; members; terms of office;
279 meetings; legal entity; costs; attorney's fees.--For any
280 municipality, chapter plan, local law municipality, or local law
281 plan under this chapter:

282 (1) In each municipality described in s. 185.03 there is
283 hereby created a board of trustees of the municipal police
284 officers' retirement trust fund, which shall be solely
285 responsible for administering the trust fund. Effective October
286 1, 1986, and thereafter:

287 (a) The membership of the board of trustees for chapter
288 plans shall consist of five members, two of whom, unless
289 otherwise prohibited by law, shall be legal residents of the
290 municipality, who shall be appointed by the legislative body of
291 the municipality, and two of whom shall be police officers as
292 defined in s. 185.02 who shall be elected by a majority of the
293 active police officers who are members of such plan. With
294 respect to any chapter plan or local law plan that, on January
295 1, 1997, allowed retired police officers to vote in such
296 elections, retirees may continue to vote in such elections. The
297 fifth member shall be chosen by a majority of the previous four
298 members, and such person's name shall be submitted to the
299 legislative body of the municipality. Upon receipt of the fifth
300 person's name, the legislative body of the municipality shall,
301 as a ministerial duty, appoint such person to the board of
302 trustees as its fifth member. The fifth member shall have the
303 same rights as each of the other four members appointed or

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304 elected as herein provided, shall serve as trustee for a period
305 of 2 years, and may succeed himself or herself in office. Each
306 resident member shall serve as trustee for a period of 2 years,
307 unless sooner replaced by the legislative body at whose pleasure
308 the member shall serve, and may succeed himself or herself as a
309 trustee. Each police officer member shall serve as trustee for a
310 period of 2 years, unless he or she sooner leaves the employment
311 of the municipality as a police officer, whereupon the
312 legislative body of the municipality shall choose a successor in
313 the same manner as an original appointment. Each police officer
314 may succeed himself or herself in office. Effective July 1,
315 2006, the terms of office of the appointed and elected members
316 of the board may be amended by municipal ordinance or special
317 act of the Legislature to extend the terms of office from 2
318 years to 4 years. The length of the terms of office shall be the
319 same for all board members.

320 Section 6. Effective July 1, 2006, if House Bill 7155 or
321 similar legislation is adopted in the same legislative session
322 or an extension thereof and becomes law, subsection (1) of
323 section 185.06, Florida Statutes, is amended to read:

324 185.06 General powers and duties of board of
325 trustees.--For any municipality, chapter plan, local law
326 municipality, or local law plan under this chapter:

327 (1) The board of trustees, subject to the fiduciary
328 standards in ss. 112.656, 112.661, and 518.11 and the Code of
329 Ethics in ss. 112.311-112.3187, may:

330 (a) Invest and reinvest the assets of the retirement trust
331 fund in annuity and life insurance contracts of life insurance

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332 companies in amounts sufficient to provide, in whole or in part,
333 the benefits to which all of the participants in the municipal
334 police officers' retirement trust fund shall be entitled under
335 the provisions of this chapter, and pay the initial and
336 subsequent premiums thereon.

337 (b) Invest and reinvest the assets of the retirement trust
338 fund in:

339 1. Time or savings accounts of a national bank, a state
340 bank insured by the Bank Insurance Fund, or a savings and loan
341 association insured by the Savings Association Insurance Fund
342 which is administered by the Federal Deposit Insurance
343 Corporation or a state or federal chartered credit union whose
344 share accounts are insured by the National Credit Union Share
345 Insurance Fund.

346 2. Obligations of the United States or obligations
347 guaranteed as to principal and interest by the United States.

348 3. Bonds issued by the State of Israel.

349 4. Bonds, stocks, or other evidences of indebtedness
350 issued or guaranteed by a corporation organized under the laws
351 of the United States, any state or organized territory of the
352 United States, or the District of Columbia, provided:

353 a. The corporation is listed on any one or more of the
354 recognized national stock exchanges or on the National Market
355 System of the NASDAQ Stock Market and, in the case of bonds
356 only, holds a rating in one of the three highest classifications
357 by a major rating service; and

358 b. The board of trustees shall not invest more than 5
359 percent of its assets in the common stock or capital stock of

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any one issuing company, nor shall the aggregate investment in any one issuing company exceed 5 percent of the outstanding capital stock of the company or the aggregate of its investments under this subparagraph at cost exceed 50 percent of the fund's assets.

This paragraph shall apply to all boards of trustees and participants. However, in the event that a municipality has a duly enacted pension plan pursuant to, and in compliance with, s. 185.35 and the trustees thereof desire to vary the investment procedures herein, the trustees of such plan shall request a variance of the investment procedures as outlined herein only through a municipal ordinance or special act of the Legislature; where a special act, or a municipality by ordinance adopted prior to July 1, 1998, permits a greater than 50-percent equity investment, such municipality shall not be required to comply with the aggregate equity investment provisions of this paragraph. Notwithstanding any other provision of law to the contrary, nothing in this section may be construed to take away any preexisting legal authority to make equity investments that exceed the requirements of this paragraph. The board of trustees may invest up to 25 ~~40~~ percent of plan assets in foreign securities.

(c) Issue drafts upon the municipal police officers' retirement trust fund pursuant to this act and rules and regulations prescribed by the board of trustees. All such drafts shall be consecutively numbered, be signed by the chair and secretary or two individuals designated by the board who are

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388 subject to the same fiduciary standards as required for the
389 board of trustees under this subsection, and state upon their
390 faces the purposes for which the drafts are drawn. The city
391 treasurer or other depository shall retain such drafts when
392 paid, as permanent vouchers for disbursements made, and no money
393 shall otherwise be drawn from the fund.

394 (d) Finally decide all claims to relief under the board's
395 rules and regulations and pursuant to the provisions of this
396 act.

397 (e) Convert into cash any securities of the fund.

398 (f) Keep a complete record of all receipts and
399 disbursements and of the board's acts and proceedings.

400 Section 7. Effective July 1, 2006, if House Bill 7155 or
401 similar legislation is not adopted in the same legislative
402 session or an extension thereof, subsection (1) of section
403 185.06, Florida Statutes, is amended to read:

404 185.06 General powers and duties of board of
405 trustees.--For any municipality, chapter plan, local law
406 municipality, or local law plan under this chapter:

407 (1) The board of trustees, subject to the fiduciary
408 standards in ss. 112.656, 112.661, and 518.11 and the Code of
409 Ethics in ss. 112.311-112.3187, may:

410 (a) Invest and reinvest the assets of the retirement trust
411 fund in annuity and life insurance contracts of life insurance
412 companies in amounts sufficient to provide, in whole or in part,
413 the benefits to which all of the participants in the municipal
414 police officers' retirement trust fund shall be entitled under

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415 the provisions of this chapter, and pay the initial and
416 subsequent premiums thereon.

417 (b) Invest and reinvest the assets of the retirement trust
418 fund in:

419 1. Time or savings accounts of a national bank, a state
420 bank insured by the Bank Insurance Fund, or a savings and loan
421 association insured by the Savings Association Insurance Fund
422 which is administered by the Federal Deposit Insurance
423 Corporation or a state or federal chartered credit union whose
424 share accounts are insured by the National Credit Union Share
425 Insurance Fund.

426 2. Obligations of the United States or obligations
427 guaranteed as to principal and interest by the United States.

428 3. Bonds issued by the State of Israel.

429 4. Bonds, stocks, or other evidences of indebtedness
430 issued or guaranteed by a corporation organized under the laws
431 of the United States, any state or organized territory of the
432 United States, or the District of Columbia, provided:

433 a. The corporation is listed on any one or more of the
434 recognized national stock exchanges or on the National Market
435 System of the NASDAQ Stock Market and, in the case of bonds
436 only, holds a rating in one of the three highest classifications
437 by a major rating service; and

438 b. The board of trustees shall not invest more than 5
439 percent of its assets in the common stock or capital stock of
440 any one issuing company, nor shall the aggregate investment in
441 any one issuing company exceed 5 percent of the outstanding
442 capital stock of the company or the aggregate of its investments

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under this subparagraph at cost exceed 50 percent of the fund's assets.

This paragraph shall apply to all boards of trustees and participants. However, in the event that a municipality has a duly enacted pension plan pursuant to, and in compliance with, s. 185.35 and the trustees thereof desire to vary the investment procedures herein, the trustees of such plan shall request a variance of the investment procedures as outlined herein only through a municipal ordinance or special act of the Legislature; where a special act, or a municipality by ordinance adopted prior to July 1, 1998, permits a greater than 50-percent equity investment, such municipality shall not be required to comply with the aggregate equity investment provisions of this paragraph. Notwithstanding any other provision of law to the contrary, nothing in this section may be construed to take away any preexisting legal authority to make equity investments that exceed the requirements of this paragraph. The board of trustees may invest up to 20 ~~10~~ percent of plan assets in foreign securities.

(c) Issue drafts upon the municipal police officers' retirement trust fund pursuant to this act and rules and regulations prescribed by the board of trustees. All such drafts shall be consecutively numbered, be signed by the chair and secretary or two individuals designated by the board who are subject to the same fiduciary standards as required for the board of trustees under this subsection, and state upon their faces the purposes for which the drafts are drawn. The city

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471 treasurer or other depository shall retain such drafts when
472 paid, as permanent vouchers for disbursements made, and no money
473 shall otherwise be drawn from the fund.

474 (d) Finally decide all claims to relief under the board's
475 rules and regulations and pursuant to the provisions of this
476 act.

477 (e) Convert into cash any securities of the fund.

478 (f) Keep a complete record of all receipts and
479 disbursements and of the board's acts and proceedings.

480 Section 8. If any provision of this act or its application
481 to any person or circumstance is held invalid, the invalidity
482 does not affect other provisions or applications of the act
483 which can be given effect without the invalid provision or
484 application, and to this end the provisions of this act are
485 severable.

486 Section 9. Except as otherwise expressly provided in this
487 act, this act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1413

Argyle Fire District, Walton County

SPONSOR(S): Brown

TIED BILLS:

IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---------------------------------------|---------|---------------------|------------------|
| 1) <u>Local Government Council</u> | <u></u> | <u>Smith T.L.S.</u> | <u>Hamby 226</u> |
| 2) <u>Finance & Tax Committee</u> | <u></u> | <u></u> | <u></u> |
| 3) <u></u> | <u></u> | <u></u> | <u></u> |
| 4) <u></u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

This bill creates as an independent district the Argyle Fire District (District) in Walton County to provide a single comprehensive special act charter for the District. The bill specifies that the purpose of the District includes providing fire protection and firefighting services, rescue services, and emergency medical services. The District is granted all the powers under chapters 189, and 191, F.S., and is required to comply with the provisions of those chapters. This bill provides for the District boundaries.

The bill authorizes the District to levy annual assessments against the taxable real estate within the district. The bill authorizes the District to levy impact fees and preserves the District's authority to levy a non-ad valorem special assessment of \$25.00 per residential dwelling or mobile home.

The bill also includes legislative intent; provides for duties of the property appraiser; provides for special assessment as a lien; provides for deposit of special assessments; provides for the District to disburse funds; authorizes the board to borrow money; provides for the use of district funds; authorizes the board to adopt rules and regulations; authorizes the board to enact fire prevention ordinances, appoint a District fire chief, acquire land, enter into contracts, establish salaries, and establish and operate a fire rescue service; allows the District to expand its boundaries to include lands within municipal boundaries subject to specific requirements; provides for dissolution of the District; provides immunity from tort liability for officers, agents, and employees; and provides for district expansion.

According to the Economic Impact Statement, the bill will result in estimated revenues of \$38,000 for fiscal year 2006-07 and \$39,000 for fiscal year 2007-08.

This bill may provide an exemption from the provisions of general law. Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government/ensure lower taxes – This bill creates an independent special fire control district with authority to impose impact fees and preserves the District's authority to levy non-ad valorem special assessments.

B. EFFECT OF PROPOSED CHANGES:

Effect of Proposed Changes

The bill authorizes the District to levy annual assessments against the taxable real estate within the district. The bill authorizes the District to levy impact fees and preserves the District's authority to levy a non-ad valorem special assessment of \$25.00 per residential dwelling or mobile home.

The bill also includes legislative intent; provides for duties of the property appraiser; provides for special assessment as a lien; provides for deposit of special assessments; provides for the District to disburse funds; authorizes the board to borrow money; provides for the use of district funds; authorizes the board to adopt rules and regulations; authorizes the board to enact fire prevention ordinances, appoint a District fire chief, acquire land, enter into contracts, establish salaries, and establish and operate a fire rescue service; allows the District to expand its boundaries to include lands within municipal boundaries subject to specific requirements; provides for dissolution of the District; provides immunity from tort liability for officers, agents, and employees; and provides for district expansion.

Argyle Fire District

The Argyle Fire District was created in 1986, by county ordinance number 86-17, amended in 1989 to add additional land. The purpose of the District is to provide fire protection and other services in emergency and crisis situations for the benefit of the residents and properties within the District. The District is governed by five commissioners who reside within the fire district. The board of commissioners is designated as the governing body of the District. The District currently levies a special assessment.

Background

Independent special districts, including independent special fire control districts, may only be created by the Legislature. The creation of independent fire control special districts is governed by ch. 189, F.S., the "Uniform Special District Accountability Act of 1989", and ch. 191, F.S., the "Independent Special Fire Control District Act". However, the legislature may provide an exemption from the general law requirements in chs. 189 and 191, F.S., in a local bill creating an independent special district. If a local bill creates an exemption from general law, Rule 5.5 of the Florida House of Representatives prohibits the local bill from being placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills.

The Uniform Special District Accountability Act of 1989

Chapter 189, F.S., known as the "Uniform Special District Accountability Act of 1989", includes requirements that must be satisfied when the Legislature creates any independent special district, including independent special fire control districts created under ch. 191, F.S. Unless the Legislature has enacted a special law exempting a particular independent special district, all districts must comply with applicable provisions of ch. 189, F.S., including provisions related to

issues that must be addressed in a district's charter, election of district governing board members, bond referenda, public records and meetings, and reporting requirements.

The Independent Special Fire Control District Act

Chapter 191, F.S., is known as the "Independent Special Fire Control District Act" (the Act). Section 191.002, F.S., sets forth the Act's purpose, which is to establish standards and procedures concerning the operations and governance of independent special fire control districts (districts), and to provide greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of districts. Currently, there are 56 districts in Florida.

Unless otherwise exempted by special or general law, the Act requires each district, whether created by special act, general law of local application, or county ordinance, to comply with the Act and provides that it is the intent of the Legislature that the Act supersede all special acts or general laws of local application provisions that contain the charter of a district. Provisions that address district boundaries and geographical subdistricts for the election of members of the governing board are excepted.

District Governing Board

Section 191.005, F.S., prescribes procedures for the election, composition, and general administration of a district's governing board. With the exception of districts whose governing boards are appointed collectively by the Governor, the county commission, and any cooperating city within the county, requires the business affairs of each district to be conducted and administered by a five-member board. Each member must be elected for a term of four years and serve until the member's successor assumes office. Each member of the board must be a qualified elector at the time he or she qualifies and continually throughout his or her term. Any board member who ceases to be a qualified elector is automatically removed pursuant to the Act. Prior to election, each candidate must qualify for election by either paying a filing fee or obtaining the signatures of at least 25 registered electors of the district on petition forms provided by the supervisor of elections and submitted and checked in the same manner as petitions filed by nonpartisan judicial candidates. A candidate who does not collect contributions and whose only expense is the filing fee is not required to appoint a campaign treasurer or designate a primary campaign depository.

The electors of the district must elect board members at the next general election following the effective date of a special act or general act of local application creating a new district. Except as provided by the Act, all elections must be held at the time and in the manner prescribed by law for holding general elections in accordance with s. 189.405(2)(a) and (3), F.S. If a vacancy occurs on the board due to the resignation, death, or removal of a board member, or the failure of anyone to qualify for a board seat, the remaining members may appoint a qualified person to fill the seat until the next general election, at which time an election must be held to fill the vacancy for the remaining term, if any.

Members of the board may each be paid a salary or honorarium to be determined by at least a majority plus one vote of the board but which may not exceed \$500 per month for each member. Separate compensation for the board member serving as treasurer may be authorized by like vote so long as total compensation for the board member does not exceed \$500 per month. Members may be reimbursed for travel and per diem expenses as provided in general law.

Each member must, upon assuming office, take and subscribe to the oath of office prescribed by s. 5(b), Art. II of the State Constitution and s. 876.05, F.S. Each member, within 30 days of

assuming office, must also give the Governor a good and sufficient surety bond in the sum of \$5,000, the cost thereof being borne by the district, conditioned on the member's faithful performance of his or her duties of office.

The board must keep a permanent record book in which the minutes of all meetings, resolutions, proceedings, certificates, bonds given by commissioners, and corporate acts are recorded. The record book must be open to inspection in the same manner as state, county, and municipal records are open under ch. 119, F.S., and s. 24, Art. I of the State Constitution. All meetings of the board must be open to the public consistent with ch. 286, s. 189.417, and other applicable general laws.

General Powers

Section 191.006, F.S., sets forth the following general powers of a district, which may be exercised by a majority vote of the district's governing board:

- To sue and be sued in the name of the district, to adopt and use a seal and authorize the use of a facsimile thereof, and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
- To provide for a pension or retirement plan for its employees. In accordance with general law, the board may provide for an extra compensation program, including a lump-sum bonus payment program, to reward outstanding employees whose performance exceeds standards, if the program provides that a bonus payment may not be included in an employee's regular base rate of pay and may not be carried forward in subsequent years.
- To contract for the services of consultants to perform planning, engineering, legal, or other professional services.
- To borrow money and accept gifts, to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith, and to hold, use, sell, and dispose of such moneys or property for any district purpose in accordance with the terms of the gift, grant, loan, or agreement relating thereto.
- To adopt resolutions and procedures prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of other documents and records of the district. The board may also adopt ordinances and resolutions that are necessary to conduct district business, if such ordinances do not conflict with any ordinances of a local general purpose government within whose jurisdiction the district is located. Any resolution or ordinance adopted by the board and approved by referendum vote of district electors may only be repealed by referendum vote of district electors.
- To maintain an office at places it designates within a county or municipality in which the district is located and appoint an agent of record.
- To acquire, by purchase, lease, gift, dedication, devise, or otherwise, real and personal property or any estate therein for any purpose authorized by this act and to trade, sell, or otherwise dispose of surplus real or personal property. The board may purchase equipment by an installment sales contract if funds are available to pay the current year's installments on the equipment and to pay the amounts due that year on all other installments and indebtedness.
- To hold, control, and acquire by donation or purchase any public easement, dedication to public use, platted reservation for public purposes, or reservation for those purposes authorized by this act and to use such easement, dedication, or reservation for any purpose authorized by this act consistent with applicable adopted local government comprehensive plans and land development regulations.
- To lease as lessor or lessee to or from any person any facility or property of any nature for the use of the district when necessary to carry out the district's duties and authority under this act.

- To borrow money and issue bonds, revenue anticipation notes, or certificates payable from and secured by a pledge of funds, revenues, taxes and assessments, warrants, notes, or other evidence of indebtedness, and mortgage real and personal property when necessary to carry out the district's duties and authority under this act.
- To charge user and impact fees authorized by resolution of the board, in amounts necessary to conduct district activities and services, and to enforce their receipt and collection in the manner prescribed by resolution and authorized by law. However, the imposition of impact fees may only be authorized as provided by general law.
- To exercise the right and power of eminent domain, pursuant to general law, over any property within the district, except municipal, county, state, special district, or federal property used for a public purpose, for the uses and purposes of the district relating solely to the establishment and maintenance of fire stations and fire substations, specifically including the power to take easements that serve such facilities consistent with applicable adopted local government comprehensive plans and land development regulations.
- To cooperate or contract with other persons or entities, including other governmental agencies, as necessary, convenient, incidental, or proper in connection with providing effective mutual aid and furthering any power, duty, or purpose authorized by this act.
- To assess and impose upon real property in the district ad valorem taxes and non-ad valorem assessments as authorized by this act.
- To impose and foreclose non-ad valorem assessment liens as provided by this act or to impose, collect, and enforce non-ad valorem assessments pursuant to general law.
- To select as a depository for its funds any qualified public depository as defined by general law which meets all the requirements of ch. 280, F.S., and has been designated by the Chief Financial Officer as a qualified public depository, upon such terms and conditions as to the payment of interest upon the funds deposited as the board deems just and reasonable.
- To provide adequate insurance on all real and personal property, equipment, employees, volunteer firefighters, and other personnel.
- To organize, participate in, and contribute monetarily to organizations or associations relating to the delivery of or improvement of fire control, prevention, emergency rescue services, or district administration.

Special Powers

Section 191.008, F.S., requires districts to provide for fire suppression and prevention by establishing and maintaining fire stations and fire substations and by acquiring and maintaining firefighting and fire protection equipment deemed necessary to prevent or fight fires. All construction must be in compliance with applicable state, regional, and local regulations, including adopted comprehensive plans and land development regulations.

This section grants districts the following special powers relating to facilities and duties authorized by the Act:

- To establish and maintain emergency medical and rescue response services and acquire and maintain rescue, medical, and other emergency equipment, pursuant to general law and any certificate of public convenience and necessity or its equivalent issued thereunder.
- To employ, train, and equip such personnel, and train, coordinate, and equip such volunteer firefighters, as are necessary to accomplish the duties of the district. The board may employ and fix the compensation of a fire chief or chief administrator. The board must prescribe the duties of such person, which include supervision and management of the operations of the district and its employees and maintenance and operation of its facilities and equipment. The fire chief or chief administrator may employ or terminate the employment of such other persons, including, without limitation, professional, supervisory, administrative, maintenance, and clerical employees, as are necessary and authorized by the board. The board must provide the compensation and other conditions of employment of the officers and employees of the district.

- To conduct public education to promote awareness of methods to prevent fires and reduce the loss of life and property from fires or other public safety concerns.
- To adopt and enforce firesafety standards and codes and enforce the rules of the State Fire Marshal consistent with the exercise of the duties authorized by chs. 553 or 633, F.S., with respect to fire suppression, prevention, and firesafety code enforcement.
- To conduct arson investigations and cause-and-origin investigations.
- To adopt hazardous material safety plans and emergency response plans in coordination with the county emergency management agency.
- To contract with general purpose local government for emergency management planning and services.

District Funding Mechanisms

Section 191.009, F.S., authorizes districts to levy ad valorem taxes, special assessments, user charges, and impact fees.

Ad Valorem Taxes -- An elected board may levy and assess ad valorem taxes on all taxable property in the district to construct, operate, and maintain district facilities and services, to pay the principal of, and interest on, general obligation bonds of the district, and to provide for any sinking or other funds established in connection with such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, may not exceed 3.75 mills unless a higher amount has been previously authorized by law, subject to a referendum as required by the State Constitution and the Act. The levy of ad valorem taxes must be approved by referendum called by the board when the proposed levy of ad valorem taxes exceeds the amount authorized by prior special act, general law of local application, or county ordinance approved by referendum. The tax is assessed, levied, and collected in the same manner as county taxes.

Non-Ad Valorem Assessments -- A district may levy non-ad valorem assessments to construct, operate, and maintain district facilities and services. The rate of such assessments must be fixed by resolution of the board pursuant to statutory procedures. Non-ad valorem assessment rates set by the board may exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years. Non-ad valorem assessment rate increases within the personal income threshold are deemed to be within the maximum rate authorized by law at the time of initial imposition. Proposed non-ad valorem assessment increases which exceed the rate set the previous fiscal year or the rate previously set by special act or county ordinance, whichever is more recent, by more than the average annual growth rate in Florida personal income over the last five years, or the first-time levy of non-ad valorem assessments in a district, must be approved by referendum of the electors of the district. The referendum on the first-time levy of an assessment must include a notice of the future non-ad valorem assessment rate increases permitted by the Act without a referendum. Non-ad valorem assessments must be imposed, collected, and enforced pursuant to general law.

User Charges -- The board may provide a reasonable schedule of user charges for the following services:

- Special emergency services, including firefighting occurring in or to structures outside the district, motor vehicles, marine vessels, aircraft, or rail cars, or as a result of the operation of such motor vehicles or marine vessels, to which the district is called to render such emergency service, and may charge a fee for the services rendered in accordance with the schedule;

- Fighting fires occurring in or at refuse dumps or as a result of an illegal burn, which fire, dump, or burn is not authorized by general or special law, rule, regulation, order, or ordinance and which the district is called upon to fight or extinguish;
- Responding to or assisting or mitigating emergencies that either threaten or could threaten the health and safety of persons, property, or the environment, to which the district has been called, including a charge for responding to false alarms; and
- Inspecting structures, plans, and equipment to determine compliance with firesafety codes and standards.

The district has a lien upon any real property, motor vehicle, marine vessel, aircraft, or rail car for any user charge assessed.

Impact Fees -- If the general purpose local government has not adopted an impact fee for fire services which is distributed to the district for construction within its jurisdictional boundaries, the board may establish a schedule of impact fees to pay for the cost of new facilities and equipment, the need for which is in whole or in part the result of new construction. The impact fees collected by the district must be kept separate from other revenues of the district and must be used exclusively to acquire, purchase, or construct new facilities or portions thereof needed to provide fire protection and emergency services to new construction. The term "new facilities" is defined as land, buildings, and capital equipment, including, but not limited to, fire and emergency vehicles, radiotelemetry equipment, and other firefighting or rescue equipment. The board must maintain adequate records to ensure that impact fees are expended only for permissible new facilities or equipment. The board may enter into agreements with general purpose local governments to share in the revenues from fire protection impact fees imposed by the governments.

District Bonds

Section 191.012, F.S., authorizes a district to issue general obligation bonds, assessment bonds, revenue bonds, notes, bond anticipation notes, or other evidences of indebtedness to finance all or a part of any proposed improvements authorized to be undertaken under the Act or other law, provided the total annual payments for the principal and interest on such indebtedness does not exceed 50 percent of the total annual budgeted revenues of the district. This section also provides detailed instructions and procedures regarding the issuance and satisfaction of district bonds.

Bonds are payable from non-ad valorem assessments or other non-ad valorem revenues, including, without limitation, user fees or charges or rental income authorized to be levied or collected or received pursuant to the Act or general law. General obligation bonds payable from ad valorem taxes may also be issued by the district, but only after compliance with s. 12, Art. VII of the State Constitution. Subject to referendum approval, a district may pledge its full faith and credit for the payment of principal and interest on general obligation bonds and for any reserve funds provided therefor and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all property in the district to the extent necessary for the payment thereof. A district is authorized, after notice and opportunity to be heard has been afforded to those affected, to impose, charge, and collect non-ad valorem revenues in connection with any of the improvements authorized under the Act and to pledge the same for the payment of bonds.

District Boundaries and Mergers

Section 191.014, F.S., provides that boundaries of a district may be modified, extended, or enlarged only upon approval or ratification by the Legislature. The merger of a district with all or portions of other independent special districts or dependent fire control districts is effective only upon ratification by the Legislature. A district may not, solely by reason of a merger with another governmental entity, increase

ad valorem taxes on property within the original limits of the district beyond the maximum established by the district's enabling legislation, unless approved by the electors of the district by referendum.

C. SECTION DIRECTORY:

- Section 1. Provides definitions.
- Section 2. Creates the District specifying that it has all powers provided in chs. 189 and 191, F.S., and those granted by the Legislature; describes the boundaries of the District; specifies the District's purpose; specifies that the District charter may only be amended by special act.
- Section 3. Provides for the composition and election of the District's governing board.
- Section 4. Provides for the administration of the District's governing board.
- Section 5. Specifies the District's powers, duties, and responsibilities regarding reporting, planning, and the authority to levy annually a special assessment against the taxable property within the district and collection methods.
- Section 6. Authorizes the District to impose impact fees on new users of services to the extent new construction requires new facilities.
- Section 7. Authorizes the District to levy special assessments against the taxable real estate within the District to provide funds for the purpose of the District.
- Section 8. Provides for the duties of the property appraiser; provides the tax collector will receive a commission or fee of 3 percent for collection of special assessments.
- Section 9. Provides for special assessment as a lien.
- Section 10. Provides for the deposit of special assessment and fees; authorizes District to disburse funds.
- Section 11. Authorizes the District to borrow money.
- Section 12. Specifies permissible uses of District funds.
- Section 13. Provides for recording keeping, adoption of rules and regulations, annual reporting, and budgeting.
- Section 14. Provides for adoption of fire prevention ordinances, provides for the appointment and employment of the fire chief, authorizes the acquisition of land by the District, provides for contracts, provides for salaries of the District personnel; and authorizes the District to establish and maintain emergency medical and rescue response services and acquire and maintain equipment.
- Section 15. Specifies that municipal annexations will follow procedures in s. 171.093, F.S.
- Section 16. Specifies that dissolution of the District must be accomplished by special act.
- Section 17. Provides for immunity from liability to the same extent as other subdivisions of the state.
- Section 18. Provides for expanding the boundaries of the District by Legislative enactment.
- Section 19. Provides for liberal construction of the act.
- Section 20. Provides for severability of the act.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? December 29, 2005 and January 5, 2006.

WHERE? *The Breeze* combined with *The Defuniak Springs Herald*, Defuniak Springs, Walton County, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No ☐

According to the Economic Impact Statement, the bill will result in estimated revenues of \$38,000 for fiscal year 2006-07 and \$39,000 for fiscal year 2007-08.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

The bill provides in section 17 of the charter tort immunity for District officers, agents, and employees. Article X, section 13, of the Florida Constitution states that "provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating." The general law that provides immunity is section 768.28, F.S., which applies to districts.

B. RULE-MAKING AUTHORITY:

The bill authorizes the board to adopt rules and regulations and authorizes the board to enact fire prevention ordinances.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exemption from General Law

The bill appears to exempt the District from section 191.014, F.S., regarding annexations. Section 18(4) of the charter states "Lands within municipal boundaries of cities contiguous to district boundaries may be included in the district upon request by the governing board of the municipality, approval of said request by affirmative vote of no fewer than three members of the district board, and referendum approval of inclusion by the electors of the municipality. The referendum shall be conducted by the municipality at the next available special or general election."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

THE BREEZE combined with
THE DEFUNIAK SPRINGS HERALD
Published Weekly
DeFUNIAK SPRINGS, FLORIDA 32433

STATE OF FLORIDA

Before the undersigned authority personally appeared Larry K. Woodham, Merle Woodham (Mrs. Larry K. Woodham), Gary B. Woodham, or Cindy Woodham (Mrs. Gary B. Woodham), who on oath says that he/she is editor-publisher of The DeFuniak Springs, Herald Breeze, a Florida newspaper published at DeFuniak Springs, in Walton County, Florida; that the attached copy of advertisement, being

NOTICE OF INTENT TO SEEK LEGISLATION

in the matter of

ARGYLE FIRE DISTRICT

In the Circuit Court for Walton County, Florida,
was published in said newspaper in the issues of

December 29, 2005 & January 5, 2006

Affiant further says that the said The DeFuniak Springs Herald-Breeze is a newspaper published at DeFuniak Springs, in said Walton County, Florida, and that the said newspaper has heretofore been continuously published in said Walton County Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Gary B. Woodham
known to me personally,
Sworn to and subscribed before me this

9th day of *January*

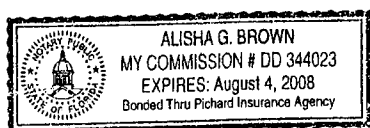
A.D., 20 *06*

Alisha G. Brown

**NOTICE OF INTENT
TO SEEK LEGISLATION**

Notice is hereby given of intent to apply to the 2006 Legislature for passage of an act relating to Walton County, Argyle Fire District, amending Laws of Florida; relating to Argyle Fire District, Walton County; creating a special district; providing definitions; providing for creation, status, charter amendments, boundaries, and purposes; providing for a board of commissioners and governance; providing an effective date.

2tc: December 29, 2005 & January
5, 2006 #597E



HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION

BILL #: 1413
SPONSOR(S): Brown
RELATING TO: Walton County - Argyle Fire District
[Indicate Area Affected (City, County, Special District) and Subject]
NAME OF DELEGATION: Walton County
CONTACT PERSON: Brad Drake
PHONE # and E-Mail: 488-4726

I. House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES ☒ NO ☐

(2) Has a public hearing been held? YES ☒ NO ☐

Date hearing held: Feb. 27

Location: Okaloosa - Walton College, DeFuniak Spring

(3) Was this bill formally approved by a majority of the delegation members?
YES ☒ NO ☐ UNIT RULE ☐ UNANIMOUS ☐

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES ☒ NO ☐ DATE Dec. 29, 2005 / Jan. 5, 2006

Where? DeFuniak Herald County Walton

Referendum in lieu of publication: YES ☐ NO ☒

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional taxation requirement been met?

YES ☐ NO ☐ NOT APPLICABLE ☒

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Donald D. Brown

Delegation Chair (Original Signature)

6 March 2006

Date

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #:

1413

SPONSOR(S):

Brown

RELATING TO:

Walton County - Argyle Vol. Fire Dept.

(Indicate Area Affected (City, County, Special District) and Subject)

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures:

FY 06-07

FY 07-08

totals =

\$38,000 \$39,000

II. ANTICIPATED SOURCE(S) OF FUNDING:

Federal:

FY 06-07

FY 07-08

State:

Local:

Assessment fees

\$38,000 \$39,000

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues:

FY 06-07

FY 07-08

Increase due to population increase
+ for County funds

varies

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages:

None

Disadvantages:

None

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR
EMPLOYMENT:

N/A

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF
DATA]:

Based on past projected assessment
Revenues from County Property Assessments, and
on past County funds received.

PREPARED BY:

Tommy Yates (Tommy Yates)
[Must be signed by Preparer] 3/11/2006 Date

TITLE:

Chairman

REPRESENTING:

Apogee Board of Fire Commissioners

PHONE: (850) 842-8631

E-Mail Address:

TRY844@AOL.com

1 A bill to be entitled
2 An act relating to Argyle Fire District, Walton County;
3 creating a special district; providing definitions;
4 providing for creation, status, charter amendments,
5 boundaries, and purposes; providing for a board of
6 commissioners; providing for election and terms of
7 commissioners; providing for employment of board
8 personnel; providing for election of board officers;
9 providing for compensation and bonds of commissioners;
10 providing for powers, duties, and responsibilities of the
11 board; preserving the authority to levy non-ad valorem
12 special assessments; providing for impact fees;
13 authorizing the board to levy special assessments;
14 providing legislative intent; providing for duties of the
15 property appraiser; providing for special assessment as a
16 lien; providing for deposit of such special assessments;
17 providing for authority to disburse funds; authorizing the
18 board to borrow money; providing for use of district
19 funds; requiring a record of all board meetings;
20 authorizing the board to adopt rules and regulations;
21 providing for the board to make an annual budget;
22 requiring an annual report; authorizing the board to enact
23 fire prevention ordinances, appoint a district fire chief,
24 acquire land, enter contracts, establish salaries, and
25 establish and operate a fire rescue service; providing for
26 district authority upon annexation of district lands;
27 providing for dissolution; providing immunity from tort
28 liability for officers, agents, and employees; providing

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for district expansion; providing for construction and effect; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Argyle Fire District is hereby created and the charter for the district is created to read:

Section 1. Definitions.--As used in the act, unless otherwise specified:

(1) "District" means the Argyle Fire District.

(2) "Board" means the board of commissioners created pursuant to this act and chapter 191, Florida Statutes.

(3) "Board of directors" means the existing policymaking and governing body of the Argyle Fire District of Walton County.

(4) "Commissioner" means a member of the board of commissioners of and for the district.

(5) "Director" means a member of the board of directors.

(6) "Residence" means one single-family dwelling, including one single-apartment dwelling unit; one single-condominium dwelling unit; one single duplex, triplex, or other attached dwelling unit; one single-family detached dwelling unit; or one single mobile or modular home dwelling unit.

(7) "Business" means motels, apartments, or rental dwellings, along with other standard commercial or industrial businesses such as gasoline stations, stores, marinas, and similar establishments, as authorized pursuant to the applicable local government comprehensive plan, whether or not such businesses are required to pay or collect sales taxes.

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57 Section 2. Creation; status; charter amendments;
 58 boundaries; district purposes.--There is hereby created an
 59 independent special fire control district and rescue service
 60 district incorporating lands in Walton County described in
 61 subsection (1) which shall be a public corporation having the
 62 powers, duties, obligations, and immunities herein set forth
 63 under the name of the Argyle Fire District. The district is
 64 organized and exists for all purposes and shall hold all powers
 65 set forth in this act and chapters 189 and 191, Florida
 66 Statutes.

67 (1) The lands to be included within the district are the
 68 following described lands in Walton County:

69 Those portions in Township 2 North, Range 18 West
 70 which include, entire sections 1 through 24 inclusive.
 71 Sections 26 through 29 inclusive. Sections 33 through
 72 35 inclusive. And all of Sections 30 and 32 lying East
 73 of the center of Bruce Creek.

74 Those portions within Township 2 North, Range 19 West
 75 which include, Sections 13 and 24 lying East of the
 76 center of Bruce Creek. Sections 1 and 2 lying outside
 77 of the present city limits of DeFuniak Springs.

78 Those portions in Township 3 North, Range 18 West
 79 which include, Sections 4 though 9 inclusive. Sections
 80 16 through 21 inclusive. Sections 28 through 29
 81 inclusive. Sections 32 and 33 inclusive. Those
 82 portions of Sections 30 and 31 lying outside of the
 83 present city limits of DeFuniak Springs.

Those portions in Township 3 North, Range 19 West
which include, those parts of Sections 1 and 2 lying
South of the centerline of County Road 1883 and
Sunrise Road. The portion of Section 3 lying south of
the centerline of Sunrise Road. The portion of Section
10 lying North and Southeast of Lake Juniper. Entire
Sections 11, 12, 13, 14 and 24. Those portions of
Section 15 lying East of a line running North and
South from the center of the Lake Juniper Dam and
lying outside of the present city limits of DeFuniak
Springs. The portion of Section 22 lying East of a
line running North and South from the center of the
Lake Juniper Dam and lying outside of the present city
limits of DeFuniak Springs. Those portions of section
23, 24, 25, and 36 lying North and or East of the
present city limits of DeFuniak Springs.

Those portions within Township 4 North, Range 18 West
which include, those portions of Section 31, lying
South of the centerline of Coy Ellis Road. Those parts
of Sections 32 and 33 lying South of the centerline of
County Road 183 North. The portion of Section 33 lying
East of County Road 183A.

The portion within Township 4 North, Range 19 West
which includes, that part of Section 36 lying South
and East of County Road 1883 and Coy Ellis Road.

(2) The purpose of this act is to promote the general
health, welfare, and safety of the citizens and residents of
Walton County who reside within the geographical limits of the

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Argyle Fire District by providing for the financial support of the Argyle Fire District of Walton County, a not-for-profit corporation, which currently provides the district with fire protection services, facilities, and firefighting equipment; the establishment and maintenance of fire stations and fire substations; the acquisition and maintenance of all firefighting and protection equipment necessary for the prevention of fires or fighting of fires; the employment and training of such personnel as may be necessary to accomplish fire prevention and firefighting; the establishment and maintenance of emergency services; the acquisition and maintenance of rescue and other emergency equipment; and the employment and training of necessary emergency personnel. The district may provide emergency medical services. The district shall have all other powers necessary to carry out these purposes.

(3) Nothing herein shall prevent the district from cooperating with the state or other local governments to render such services to communities adjacent to the land described in this section as evidenced by a signed aid agreement.

(4) The district charter may be amended only by special act of the Legislature.

Section 3. Board of commissioners.--

(1) Pursuant to chapter 191, Florida Statutes, the business and affairs of the district shall be governed and administered by a board of five commissioners, who shall be qualified electors residing within the district and shall be elected by the qualified electors residing within the district at a general election, subject to the provisions of chapters 189

140 and 191, Florida Statutes, and this act. Each commissioner shall
141 hold office until his or her successor is elected and qualified
142 under the provisions of this act. The procedures for conducting
143 district elections and for qualification of candidates and
144 electors shall be pursuant to chapters 189 and 191, Florida
145 Statutes.

146 (2) The five members of the initial board shall be elected
147 by the qualified electors residing within the district. The
148 three elected members for seats 1, 3, and 5 in the initial
149 election under this act shall serve terms of 4 years each. The
150 remaining two selected members for seats 2 and 4 in the initial
151 election under this act shall serve terms of 2 years each.
152 Subsequent elections under this act shall coincide with the
153 general elections of this state. The members of the board shall
154 serve on a nonpartisan basis for a term of 4 years each.

155 (3) Vacancies in office shall be filled by special
156 election, said election to be held coincidental with the next
157 countywide general or special election. The board may appoint a
158 qualified elector of the district to act as commissioner until
159 the vacancy is filled by election. A commissioner must be a
160 qualified elector residing within the district. A commissioner
161 may be removed from office for any reason that a state or county
162 officer may be removed.

163 (4) All elections shall be noticed, called, and held
164 pursuant to the provisions of the general laws of the state,
165 except as otherwise provided herein. The board shall, to the
166 extent possible, coordinate all elections with countywide
167 general or special elections in order to minimize costs.

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Elections shall be called through the adoption of an appropriate resolution of the district directed to the Board of County Commissioners of Walton County, the Supervisor of Elections of Walton County, and other appropriate officers of the county. The district shall reimburse county government for the actual cost of district elections. No commissioner shall be a paid employee of the district while holding said position. This shall not prevent volunteers from receiving reimbursement for expenses from serving as commissioners.

(5) The board may employ such personnel as deemed necessary for the proper function and operation of a fire district. The salaries of fire department and emergency service personnel and any other wages shall be determined by the board.

Section 4. Officers; board compensation; bond.--

(1) In accordance with chapter 191, Florida Statutes, each elected member of the board shall assume office 10 days following the member's election. Annually, within 60 days after election of new members of said board, the members shall organize by electing from their number a chair, vice chair, secretary, and treasurer. However, the same member may be both secretary and treasurer, in accordance with chapter 191, Florida Statutes.

(2) The commissioners may receive reimbursement for actual expenses incurred while performing the duties of their offices in accordance with general law governing per diem for public officials. Commissioners may receive compensation for their services in accordance with chapter 191, Florida Statutes.

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(3) Each commissioner, upon taking office and in accordance with chapters 189 and 191, Florida Statutes, shall execute to the Governor, for the benefit of the district, a bond of \$5,000 with a qualified personal or corporate surety, conditioned upon the faithful performance of the duties of the commissioner's office and upon an accounting for all funds which come into his or her hands as commissioner; however, the treasurer shall furnish a bond of \$10,000, which may be in lieu of the \$5,000 bond. The premium of such bonds shall be paid from district funds.

Section 5. Powers; duties; responsibilities.--

(1) The district shall have and the board may exercise by majority vote all the powers and duties set forth in this act and chapters 189, 191, and 197, Florida Statutes, including, but not limited to, special assessments, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate from non-ad valorem assessments, contractual agreements, and adoption of ordinances and resolutions that are necessary to conduct district business if such ordinances do not conflict with any ordinance of a local general purpose government within whose jurisdiction the district is located.

(2) The board shall continue to have the right, power, and authority to levy annually special assessment against the taxable property within the district to provide funds for the purposes of the district, in an amount not to exceed the limit provided in chapter 191, Florida Statutes.

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222 (3) The methods for assessing and collecting special
223 assessments, fees, or service charges shall be as set forth in
224 this act and chapters 170, 189, 191, and 197, Florida Statutes.

225 (4) The district shall levy and collect special
226 assessments in accordance with chapter 200, Florida Statutes.

227 (5) The district is authorized to levy and enforce special
228 assessments in accordance with chapters 170, 189, 191, and 197,
229 Florida Statutes.

230 (6) The district's planning requirements shall be as set
231 forth in this act and chapters 189 and 191, Florida Statutes.

232 (7) Requirements for financial disclosure, meeting
233 notices, reporting, public records maintenance, and per diem
234 expenses for officers and employees shall be as set forth in
235 this act and chapters 112, 119, 189, 191, and 286, Florida
236 Statutes.

237 Section 6. Impact fees.--

238 (1) Pursuant to section 191.009(4), Florida Statutes, it
239 is hereby declared that the cost of new facilities borne by fire
240 protection and emergency services should be borne by new users
241 of the district's services to the extent new construction
242 requires new facilities, but only to that extent. It is the
243 legislative intent of this section to transfer to the new users
244 of the district's fire protection and emergency services a fair
245 share of the costs that new users impose on the district for new
246 facilities. This shall only apply in the event that the general-
247 purpose local government in which the district is located has
248 not adopted an impact fee for fire services which is distributed

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to the district for construction within its jurisdictional boundaries.

(2) The impact fees collected by the district pursuant to this section shall be kept as a separate fund from other revenues of the district and shall be used exclusively for the acquisition, purchase, or construction of new facilities or portions thereof required to provide fire protection and emergency services to new construction. "New facilities" means land, buildings, and capital equipment, including, but not limited to, fire and emergency vehicles and radio telemetry equipment. The fees shall not be used for the acquisition, purchase, or construction of facilities which must be obtained in any event, regardless of growth within the district. The board of fire commissioners shall maintain adequate records to ensure that impact fees are expended only for permissible new facilities.

Section 7. Special assessments.--

(1) The board shall have the right, power, and authority to levy special assessments against the taxable real estate within the district to provide funds for the purpose of the district.

(2)(a) For each residential dwelling or mobile home situated on any parcel of land within said district, the charge shall be \$25 annually. It is expressly understood that mobile home parks or multiunit dwellings are not included in this category and shall be included in paragraph (b).

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(b) For each mobile home park, apartment building, motel, hotel, condominium, townhouse, or other multifamily residence, the charge shall not exceed:

1. 2 to 4 units or lots, \$25 each annually.
2. 5 to 10 units or lots, \$20 each annually.
3. 11 to 25 units or lots, \$18 each annually.
4. Over 25 units or lots, \$15 each annually.

(c) For each commercial establishment or business, the charge shall not exceed the following rates:

1. Up to 5,000 square feet of floor space: \$50 annually.
2. Over 5,000 square feet of floor space: \$100 annually.

The existence of a commercial establishment or business shall be evidenced by the presence of advertising signs, by tax roll classification, or by custom. Business enterprises wholly contained within a residential unit shall not be included in this category and shall be included under paragraph (a). Multifamily residential units and mobile home parks shall be included under paragraph (b).

(d) No assessment shall be levied for any parcel of agricultural, timber, unimproved residential, or other unimproved property. Adjoining parcels owned by an individual taxpayer will be treated as one parcel for assessment purposes, even though they may be shown as separate items on the county tax roll.

(e) No assessment shall be levied against churches, schools, governmental property, or property owned by other nonprofit charitable organizations.

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(f) Any increase in the special assessment must be approved by a majority of the electors within the Argyle Fire District.

(3) It is the legislative intent that this act shall authorize the Walton County Property Appraiser and the Walton County Tax Collector to take all appropriate action to comply with the intent of the purpose of this act.

(4) It is also the legislative intent that the board of commissioners shall be a vehicle to provide funding to accomplish the purpose set out in this act.

Section 8. Property appraiser.--

(1) The Walton County Property Appraiser shall furnish the commissioners a tax roll covering all taxable properties within the district on or before July 1 of each year.

(2) The Walton County Property Appraiser shall include in the Walton County tax roll the assessments made by the board, and the same shall be collected in the manner as provided for by this act and paid over by the Walton County Tax Collector to the board.

(3) The Walton County Property Appraiser shall be reimbursed for assessing such special assessments in the manner and amount authorized by general law, and the Walton County Tax Collector shall receive a commission or fee of 3 percent for collection of such special assessments.

Section 9. Special assessment as a lien.--The special assessment levied and assessed by the district shall be a lien upon the property so assessed along with the county taxes assessed against such property until said assessment and taxes

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have been paid, and if the special assessment levied by the
district becomes delinquent, such special assessment shall be
considered a part of the county tax subject to the same
penalties, charges, fees, and remedies for enforcement and
collection of such taxes.

Section 10. Deposit of special assessments; fees;
authority to disburse funds.--

(1) The proceeds of the assessments and funds of the
district shall be deposited in qualified public depositories in
accordance with chapters 191 and 280, Florida Statutes, in the
name of the district in a bank authorized to receive deposits of
district funds. The bank shall be designated by a resolution of
the board.

(2) All warrants for the payment of labor, equipment, and
other expenses of the board, and in carrying into effect this
act and the purpose thereof, shall be payable by the treasurer
of the board on accounts and vouchers approved and authorized by
two board members. No funds of the district shall be paid out or
disbursed except by check signed by two board members.

Section 11. Authority to borrow money.--

(1) The board of commissioners shall have the power and
authority to borrow money or issue other evidences of
indebtedness for the purpose of the district in accordance with
chapters 189 and 191, Florida Statutes, provided, however, that
the total payments in any one year, including principal and
interest, on any indebtedness incurred by the district shall not
exceed 50 percent of the total estimated annual budgeted
revenues of the district.

359 (2) The board of commissioners, board of directors as a
360 body, or any of the members of either board as individuals shall
361 not be personally or individually liable for the repayment of
362 such loan. Such repayment shall be made out of the special
363 assessment receipts of the district, except as provided in this
364 subsection. The commissioners shall not create any indebtedness
365 or incur obligations for any sum or amount which they are unable
366 to repay out of district funds available to them at that time,
367 except as otherwise provided in this act, provided, however,
368 that the commissioners may make purchases of equipment on an
369 installment basis as necessary if funds are available for the
370 payment of the current year's installment on such equipment plus
371 the amount due in that year of any of the installments and the
372 repayment of any bank loan or other existing indebtedness which
373 may be due that year.

374 Section 12. Use of district funds.--No funds of the
375 district shall be used for any purposes other than the
376 administration of the affairs and business of the district; the
377 construction, care, maintenance, upkeep, operation, and purchase
378 of firefighting and rescue equipment or fire station; the
379 payment of public utilities; and the payment of salaries of
380 district personnel as the board may from time to time determine
381 to be necessary for the operations and effectiveness of the
382 district.

383 Section 13. Record of board meetings; authority to adopt
384 rules and regulations; annual reports; budget.--

385 (1) A record shall be kept of all meetings of the board,
386 and in such meetings concurrence of a majority of the

387 commissioners present shall be necessary to any affirmative
388 action by the board.

389 (2) The board shall have the authority to adopt and amend
390 rules and regulations for the administration of the affairs of
391 the district under the terms of this act and chapters 189 and
392 191, Florida Statutes, which shall include, but not be limited
393 to, the authority to adopt the necessary rules and regulations
394 for the administration and supervision of the property and
395 personnel of the district; for the prevention of fires, fire
396 control, fire hydrant placement, and flow testing in accordance
397 with current NFPA rules; and for rescue work within the
398 district. Said commissioners shall have all the lawful power and
399 the authority necessary to carry out the purposes of said fire
400 district; to purchase all necessary real and personal property;
401 to purchase and carry standard insurance policies on all such
402 equipment; to employ such personnel as may be necessary to carry
403 out the purpose of said fire district; to provide adequate
404 insurance for said employees; to purchase and carry appropriate
405 insurance for the protection of all firefighters and personnel
406 as well as all equipment and personal property on loan to the
407 district; to sell surplus real and personal property in the same
408 manner and subject to the same restrictions as provided for such
409 sales by counties; to enter into contracts with qualified
410 service providers, the Argyle Fire District of Walton County,
411 other fire departments, municipalities, and state and federal
412 governmental units for the purpose of obtaining financial aid;
413 and for otherwise carrying out the purposes of the district. The

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commissioners shall adopt a fiscal year for said fire district,
which shall be October 1 to September 30.

(3) Any policies, rules, and regulations promulgated and
made by the board shall have the force and effect of law after
copies thereof, signed by the secretary and chair or vice chair,
shall have been posted in three public places within the
district in conspicuous locations and advertised by title once a
week for 2 consecutive weeks in a newspaper of general paid
circulation in the district.

(4) The board shall, on or before November 1, make an
annual report of its actions and accounting of its funds as of
September of that year, and shall file said report in the office
of the Clerk of the Circuit Court of Walton County, whose duty
it shall be to receive and file said report and hold and keep
the same as a public record.

(5) For the purposes of carrying into effect this act, the
board shall annually prepare, consider, and adopt a district
budget pursuant to the applicable requirements of chapters 189
and 191, Florida Statutes. The board shall, at the same time as
it makes its annual report, file its estimated budget for the
fiscal year beginning October 1, which budget shall show the
estimated revenue to be received by the district and the
estimated expenditures to be incurred by the district in
carrying out its operations.

Section 14. Authority to enact fire prevention ordinances;
appoint or employ a fire chief; acquire land; enter contracts;
establish salaries; general and special powers; authority to
provide emergency medical and rescue services.--

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(1) The board of commissioners shall have the right and power to enact fire prevention ordinances in the same manner provided for the adoption of policies and regulations in subsection (2) of section 13, and when the provisions of such fire prevention ordinances are determined by the board to be violated, the office of the state attorney, upon written notice of such violation issued by the board, is authorized to prosecute such person or persons held to be in violation thereof. Any person found guilty of a violation may be punished as provided in chapter 775, Florida Statutes, as a misdemeanor of the second degree. The cost of such prosecution shall be paid out of the district funds, unless otherwise provided by law.

(2) The board shall have the power to appoint or employ a fire chief, who shall be a person experienced in all types of firefighting and fire prevention and who shall work with and cooperate with the Fire Marshal in which the district is situated in the prevention of fires of all types. The district fire chief shall be authorized to enter, at all reasonable hours, any building or premises for the purpose of making any inspection or investigation which the State Fire Marshal is authorized to make pursuant to state law and regulation. The owner, lessee, manager, or operator of any building or premises shall permit the district fire chief to enter and inspect the building or premises at all reasonable hours. The district fire chief shall report any violations of state fire safety laws or regulations to the appropriate officials.

(3) The board shall have the power to acquire, by gift or purchase, lands or rights in lands, and any other property, real

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470 and personal, tangible or intangible, necessary, desirable, or
 471 convenient for carrying out the purposes of the district, and to
 472 pay any and all costs of same out of the funds of the district,
 473 provided that prior to the acquisition of the location of a fire
 474 station site, an appropriate investigation shall be conducted
 475 which shall include, but not be limited to, obtaining the staff
 476 recommendation of the Walton County Planning Department.

477 (4) The board shall have the power to enter into contracts
 478 or to otherwise join with the Argyle Fire District of Walton
 479 County, or to otherwise join with any other district, city, or
 480 town, the United States of America, or any agency or authority
 481 thereunder, for the purpose of expanding services, providing
 482 effective aid, and accomplishing and carrying out the purposes
 483 for which the district was created and for the further purpose
 484 of specifically obtaining financial aid, assistance, or subsidy.

485 (5) The salaries of fire department personnel and any
 486 other wages shall be determined by the board.

487 (6) The district is authorized to establish and maintain
 488 emergency medical and rescue response services and acquire and
 489 maintain rescue, medical, and other emergency equipment, subject
 490 to the provisions of chapter 401, Florida Statutes.

491 Section 15. Annexations.--If any municipality or other
 492 fire control district annexes any land included in the district,
 493 such annexation shall follow the procedures set forth in section
 494 171.093, Florida Statutes.

495 Section 16. Dissolution.--The district shall exist until
 496 dissolved in the same manner as it was created. If the Argyle
 497 Fire District of Walton County is dissolved or ceases to exist

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for any reason, or if the board determines that the Argyle Fire District of Walton County is unable to carry out its objectives as stated or the objectives of the district as stated in subsection (2) of section 2, or the district's published policies, the board shall in its discretion make arrangements for other means of providing fire protection and rescue services.

Section 17. Immunity from tort liability.--

(1) The district and its officers, agents, and employees shall have the same immunity from tort liability as other agencies and subdivisions of the state. The provisions of chapter 768, Florida Statutes, shall apply to all claims asserted against the district.

(2) The district commissioners and all officers, agents, and employees of the district shall have the same immunity and exemption from personal liability as is provided by general law of the state for state, county, and municipal officers.

(3) The district shall defend all claims against the commissioners, officers, agents, and employees which arise within the scope of employment or purposes of the district and shall pay all judgments against said persons, except where said persons acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Section 18. District expansion.--

(1) The district boundaries may be extended from time to time as follows:

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525 (a) Land contiguous to the boundaries of the district in
526 unincorporated Walton County may be included in the district
527 when a petition for inclusion signed and sworn to by a majority
528 of the owners of the real property within the tract or tracts to
529 be included in the district has been presented to the board of
530 commissioners and the proposal has been approved by the
531 affirmative vote of no fewer than three members of the board of
532 commissioners at a regular meeting.

533 (b) The petition must contain the legal description of the
534 property sought to be added to the district and the names and
535 addresses of the owners of the property.

536 (2) If a proposal to add an area to the district as
537 defined in subsection (1) is approved by the affirmative vote of
538 no fewer than three members of the board of commissioners at a
539 regular meeting, the board of commissioners shall thereafter
540 adopt a resolution describing the lands to be included within
541 the district and shall cause such resolution to be duly enrolled
542 in the record of the meeting and a certified copy of the
543 resolution to be recorded in the Office of the Clerk of the
544 Circuit Court of Walton County.

545 (3) Upon adoption of the resolution by the board, the
546 district shall, pursuant to chapter 191, Florida Statutes,
547 request that its legislative delegation approve said addition
548 and sponsor legislation amending the district boundary. Upon
549 approval by the Legislature, the boundary shall be amended.

550 (4) Lands within municipal boundaries of cities contiguous
551 to district boundaries may be included in the district upon
552 request by the governing board of the municipality, approval of

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553 said request by affirmative vote of no fewer than three members
554 of the district board, and referendum approval of inclusion by
555 the electors of the municipality. The referendum shall be
556 conducted by the municipality at the next available special or
557 general election.

558 Section 19. Construction.--This act shall be construed as
559 remedial and shall be liberally construed to promote the purpose
560 for which it is intended.

561 Section 20. Effect.--In the event that any part of this
562 act should be held void for any reason, such holding shall not
563 affect any other part thereof.

564 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1443 CS Construction Lien Law
SPONSOR(S): Russell; Traviesa
TIED BILLS: None **IDEN./SIM. BILLS:** SB 588

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|-----------------------------|----------------|--------------|----------------|
| 1) Civil Justice Committee | 7 Y, 0 N, w/CS | Blalock | Bond |
| 2) Local Government Council | | Smith T.L.J. | Hamby LJO |
| 3) Justice Council | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

This bill amends the Construction Lien Law to:

- Allow for the local building department to electronically deliver a summary of the Construction Lien Law to the property owner;
- Provide that a private provider performing inspection services may not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, or any other means a certified copy of the recorded notice of commencement;
- Increase from \$5,000 to \$7,500 the amount of a direct contract to repair or replace an existing heating or air-conditioning system in which a Notice of Commencement need not be filed;
- Provide that an issuing authority or a building official may not require that a notice of commencement be recorded as a condition of the application, processing, or issuance of a building permit;
- Authorize authorities issuing building permits to accept permit applications electronically and require an electronic application to include a sworn electronic submission statement;
- Require that an authority responsible for issuing building permit applications, which accepts building permit applications in an electronic format, provide public Internet access to the electronic building permit applications in a searchable format;
- Provide that when notices or other documents are sent by overnight or second-day delivery, evidence of delivery may be in electronic format.
- Provide procedures for determining the effective date of the service of notice when the notice was served electronically; and
- Provide that any person, firm, or corporation that furnishes a waiver or release of lien, or other documents containing false information, commits a third degree felony.

This bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- This bill amends construction lien law to both increase and decrease regulation.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 713.13, F.S., provides that the recording of a notice of commencement gives constructive notice that claims of lien may be recorded and may take priority. It does not constitute a lien, cloud, or encumbrance on real property.¹

Liens for professional services and subdivision improvements attach at the time they are recorded and take priority at that time.² Liens of materialmen or laborers who are in privity with the owner and who comply with the provisions of ch. 713, F.S., attach and take priority at the time the notice of commencement is recorded. However, in the event a notice of commencement is not filed, the liens attach and take priority at the time the claim of lien is recorded.

A notice of commencement must be recorded in the clerk's office before a contractor actually begins an improvement to real property or recommences completion of any improvement after default or abandonment. The notice must provide:

- A description of the real property;
- A general description of the improvement;
- Name and address of the owner, the owner's interest in the site of the improvement, and the name and address of the fee simple titleholder, if other than the owner;
- The name and address of the contractor;
- The name and address of the surety on the payment bond, if any, and the amount of the bond (a copy of the bond must be attached to the notice; however, if the bond is not recorded it may be used as a transfer bond under s. 713.24, F.S.);³
- The name and address of any person making a loan for the construction of the improvements; and
- The name and address of a designated person upon whom documents may be served if other than the owner.

As a pre-requisite to perfecting a lien and recording a claim of lien, all lienors who are not in privity with the owner, except laborers, must serve a notice on the owner.⁴ A notice to the owner provides the identity of all persons that have furnished labor or materials to improve the owner's property. The notice to the owner protects the owner from double payment and establishes priority of lien.⁵

When final payment under a direct contract is due, the contractor must provide the owner a final payment affidavit. The contractor's final payment affidavit must state that all lienors under direct

¹ Section 713.13(3), F.S.

² Section 713.07, F.S.

³ Section 713.13(1)(e), F.S. A transfer bond allows an owner, who has erred and not recorded the bond with the notice of commencement, to transfer liens which are recorded against the owner's property. A lien may be transferred from the real property by depositing the amount required by s. 713.24(3), F.S., with the Clerk of the Court or by filing a surety bond in that amount with the clerk.

⁴ Section 713.06(2)(a), F.S.

⁵ Section 713.06, F.S.

contract have been paid in full, or if not paid in full, stating the name of each lienor that has not been paid in full and the amount due. Those lienors that fail to provide a notice to the owner may lose their lien rights if the owner makes proper payments.⁶

After receipt of a lienor notice to the owner,⁷ an owner must make proper payments to the lienor. Proper payment means the owner pays all lienors named in the notice directly.⁸ Similarly, when an owner receives a contractor's final payment affidavit, the owner must make proper payments to the contractor. Owners that make these payments will have a proper payment defense against any claim of lien. The notice of commencement must state if the contract between the owner and the contractor named in the notice is for construction or improvement that takes in excess of one year. Any payments made by the owner after the expiration of the notice are considered improper payments.

Effect of Proposed Changes

Requirements for Issuing Building Permits

Section 713.135(1), F.S., provides that when any person applies for a building permit, the authority issuing the permit is required to:

- Print on the face of each permit card a statement that the owner's failure to record a notice of commencement may result in the owner paying twice for improvements to the property;⁹
- Provide the applicant and the owner of the real property upon which improvements are to be constructed with a printed statement stating that the right, title, and interest of the person who has contracted for the improvement may be subject to attachment under the construction lien law. The authority must also provide the applicant with a statement from the department providing a summary of construction lien law. The authority must mail the statement to the owner;¹⁰ and
- Inform each applicant who is not the person whose right, title, and interest is subject to attachment, that as a condition to the issuance of a building permit, the applicant must promise in good faith that the statement will be delivered to the person whose property is subject to attachment.

Section 713.135(1)(d), F.S., provides that a Notice of Commencement is not required in direct contracts to repair or replace an existing heating or air-conditioning system in an amount less than \$5,000.

This bill amends s. 713.135(1)(b), F.S., to require that the building permit issuing authority must mail, deliver by electronic mail or other electronic format or facsimile, or personally deliver the statement required a summary of the Construction Lien Law to the owner or personally deliver the summary to the owner or, if the owner is required to personally appear to obtain the permit, provide the summary to any owner making improvements to real property.

This bill amends s. 713.135 (1)(d), F.S., to provide that in addition to a building permit issuing authority, a private provider performing inspection services may not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, or any other means a certified copy of the recorded notice of commencement.

⁶ Section 713.06(3)(d), F.S.

⁷ The notice to owner must be served no later than 45 days from commencing services to the property and before the date of the owner's final payment after the contractor has furnished the required final payment affidavit. s. 713.06(2)(a), F.S.

⁸ Section 713.06, F.S.

⁹ Section 713.135(1)(a), F.S.

¹⁰ Section 713.135(1)(b), F.S.

This bill also amends s. 713.135(1)(d), F.S., by increasing the amount from \$5,000 to \$7,500 in direct contracts to repair or replace an existing heating or air-conditioning system in which a Notice of Commencement need not be filed.

This bill amends s. 713.135(1)(e), F.S., by providing that an issuing authority or a building official may not require that a notice of commencement be recorded as a condition of the application, processing, or issuance of a building permit. It provides that the paragraph does not modify or waive the inspection requirements set forth in the subsection.

This bill amends s. 713.135(4), F.S., to conform with the electronic mail provisions in the new s. 713.135(6)(b), F.S.

This bill amends s. 713.135(6)(b) and (c), F.S., to authorize authorities issuing building permits to accept permit applications electronically. It requires an electronic application to include a sworn electronic submission statement. This bill also requires that an authority responsible for issuing building permit applications that accepts building permit applications in an electronic format provide public Internet access to the electronic building permit applications in a searchable format.

Procedures for Serving Notices and Other Instruments

Section 713.18, F.S., provides that service of notices and other documents required under the Construction Lien Law must be made by actual delivery to the person to be served; or if a partnership, to one of the partners; or, if a corporation, to an officer, director, managing agent, or business agent thereof.¹¹ If service of notices by actual delivery or by mail cannot be accomplished, then posting on the premises is permitted.¹²

Section 713.18(1)(b), F.S., provides that notice may be sent by registered or certified mail, with postage prepaid, or by overnight or second-day delivery with evidence of delivery.¹³ If a notice to an owner, is mailed by registered or certified mail with postage prepaid to the person to be served, within 40 days after the date the lienor first furnishes labor, services, or materials, service of that notice is effective as of the date of mailing if the person who served the notice maintains a registered or certified mail log that shows:¹⁴ (1) the registered or certified mail number issued by the United States Postal Service; (2) the name and address of the person served; and (3) the date stamp of the United States Postal Service confirming the date of mailing.

This bill amends s. 713.18(1)(b), F.S., to provide that evidence of delivery of documents that are sent by overnight or second day delivery with postage paid as required under Construction Lien Law can be in electronic format.

This bill also amends s. 713.18(1)(b), F.S., to provide that where the person who served notice maintains electronic tracking records generated through the United States Postal Service, containing the postal tracking number, the service of notice is effective as of the date of mailing, if the person shows the name and address of the person served, and verification of the date of receipt by the United States Postal Service.

Making or Furnishing False Statement

Section 713.35, F.S., provides that if any person, firm, or corporation knowingly and intentionally furnishes to another person, firm, or corporation a written statement in the form of an affidavit containing false information about the payment status of subcontractors, sub-subcontractors, or

¹¹ Section 713.18(1)(a), F.S.

¹² Section 713.18(1)(c), F.S.

¹³ Section 713.18(1)(b), F.S.

¹⁴ Section 713.18(1)(b), F.S.

suppliers in connection with the improvement of real property in this state, and that person relies on the information to his detriment, then that person is guilty of a felony of the third degree.¹⁵

The bill amends s. 713.35, F.S., by revising the list of legal documents to include a waiver or release of lien, or other document in which it is a third-degree felony to knowingly and intentionally include certain false information about the payment status of subcontractors, sub-subcontractors, or suppliers in connection with the improvement of real property.

C. SECTION DIRECTORY:

Section 1 amends s. 713.135, F.S., relating to the notice of commencement and applicability of a lien.

Section 2 amends s. 713.18, F.S., relating to the use of electronic mailing and other formats for serving notices, claims of lien, affidavits, and other documents required by the Construction Lien Law.

Section 3 amends s. 713.35, F.S., relating to the making or furnishing a false statement.

Section 4 provides an effective date of October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

¹⁵ Section 713.35, F.S.

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006 the Civil Justice Committee adopted two amendments to this bill. The first amendment provided that evidence of delivery of service of notices, claims of lien, affidavits, and other documents required by the Construction Lien Law may be in an electronic format when notice is sent by overnight or second-day delivery. The second amendment provided procedures for determining the effective date of a service of notice when the notice was served electronically and the person who served the notice maintains electronic tracking records. The bill, as amended, was reported favorably with committee substitute.

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CHAMBER ACTION

The Civil Justice Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the Construction Lien Law; amending s. 713.135, F.S.; revising certain notice of commencement and applicability of lien requirements for certain authorities issuing building permits; prohibiting private providers performing inspection services from performing or approving certain inspections under certain circumstances; increasing a threshold amount for certain application requirement exemptions; prohibiting issuing authorities from requiring recordation of a notice of commencement for certain purposes; authorizing fees for furnishing copies of certain statements; authorizing authorities issuing building permits to accept permit applications electronically; requiring an electronic submission statement on building permit applications; requiring provision of Internet access; amending s. 713.18, F.S.; providing for electronic evidence of delivery of notices required by the Construction Lien Law; amending s. 713.35, F.S.; revising provisions relating to the making or

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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furnishing of false statements on certain construction documents; providing penalties; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (b) and (d) of subsection (1) and subsections (4) and (6) of section 713.135, Florida Statutes, are amended, and paragraph (e) is added to subsection (1) of that section, to read:

713.135 Notice of commencement and applicability of lien.--

(1) When any person applies for a building permit, the authority issuing such permit shall:

(b) Provide the applicant and the owner of the real property upon which improvements are to be constructed with a printed statement stating that the right, title, and interest of the person who has contracted for the improvement may be subject to attachment under the Construction Lien Law. The Department of Business and Professional Regulation shall furnish, for distribution, the statement described in this paragraph, and the statement must be a summary of the Construction Lien Law and must include an explanation of the provisions of the Construction Lien Law relating to the recording, and the posting of copies, of notices of commencement and a statement encouraging the owner to record a notice of commencement and post a copy of the notice of commencement in accordance with s. 713.13. The statement must also contain an explanation of the

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owner's rights if a lienor fails to furnish the owner with a notice as provided in s. 713.06(2) and an explanation of the owner's rights as provided in s. 713.22. The authority that issues the building permit must obtain from the Department of Business and Professional Regulation the statement required by this paragraph and must mail, deliver by electronic mail or other electronic format or facsimile, or personally deliver that statement to the owner or, in a case in which the owner is required to personally appear to obtain the permit, provide that statement to any owner making improvements to real property consisting of a single or multiple family dwelling up to and including four units. However, the failure by the authorities to provide the summary does not subject the issuing authority to liability.

(d) Furnish to the applicant two or more copies of a form of notice of commencement conforming with s. 713.13. If the direct contract is greater than \$2,500, the applicant shall file with the issuing authority prior to the first inspection either a certified copy of the recorded notice of commencement or a notarized statement that the notice of commencement has been filed for recording, along with a copy thereof. In the absence of the filing of a certified copy of the recorded notice of commencement, the issuing authority or a private provider performing inspection services may ~~shall~~ not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, or any other means such certified copy with the issuing authority. The certified copy of the notice of commencement must contain the name and address of the owner, the

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name and address of the contractor, and the location or address of the property being improved. The issuing authority shall verify that the name and address of the owner, the name of the contractor, and the location or address of the property being improved which is contained in the certified copy of the notice of commencement is consistent with the information in the building permit application. The issuing authority shall provide the recording information on the certified copy of the recorded notice of commencement to any person upon request. This subsection does not require the recording of a notice of commencement prior to the issuance of a building permit. If a local government requires a separate permit or inspection for installation of temporary electrical service or other temporary utility service, land clearing, or other preliminary site work, such permits may be issued and such inspections may be conducted without providing the issuing authority with a certified copy of a recorded notice of commencement or a notarized statement regarding a recorded notice of commencement. This subsection does not apply to a direct contract to repair or replace an existing heating or air-conditioning system in an amount less than \$7,500 ~~\$5,000~~.

(e) Not require that a notice of commencement be recorded as a condition of the application for or processing or issuance of a building permit. However, this paragraph does not modify or waive the inspection requirements set forth in this subsection.

(4) The several boards of county commissioners, municipal councils, or other similar bodies may by ordinance or resolution establish reasonable fees for furnishing copies of the forms and

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108 the printed statement provided in ~~paragraphs~~ paragraph (1) (b)
109 and (d) in an amount not to exceed \$5 to be paid by the
110 applicant for each permit in addition to all other costs of the
111 permit; however, no forms or statement need be furnished,
112 mailed, or otherwise provided to, nor may such additional fee be
113 obtained from, applicants for permits in those cases in which
114 the owner of a legal or equitable interest (including that of
115 ownership of stock of a corporate landowner) of the real
116 property to be improved is engaged in the business of
117 construction of buildings for sale to others and intends to make
118 the improvements authorized by the permit on the property and
119 upon completion will offer the improved real property for sale.

120 (6) (a) In addition to any other information required by
121 the authority issuing the permit, the building permit
122 application must be in substantially the following form:

123

124 Tax Folio No. _____

125 BUILDING PERMIT APPLICATION

126

127 Owner's Name

128 Owner's Address

129 Fee Simple Titleholder's Name (If other than owner)

130 Fee Simple Titleholder's Address (If other than owner)

131 City

132 State _____ Zip _____

133 Contractor's Name

134 Contractor's Address

135 City

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136 State _____ Zip _____
137 Job Name
138 Job Address
139 City _____ County _____
140 Legal Description
141 Bonding Company
142 Bonding Company Address
143 City _____ State _____
144 Architect/Engineer's Name
145 Architect/Engineer's Address
146 Mortgage Lender's Name
147 Mortgage Lender's Address

148
149 Application is hereby made to obtain a permit to do the
150 work and installations as indicated. I certify that no work or
151 installation has commenced prior to the issuance of a permit and
152 that all work will be performed to meet the standards of all
153 laws regulating construction in this jurisdiction. I understand
154 that a separate permit must be secured for ELECTRICAL WORK,
155 PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,
156 TANKS, and AIR CONDITIONERS, etc.

157
158 OWNER'S AFFIDAVIT: I certify that all the foregoing information
159 is accurate and that all work will be done in compliance with
160 all applicable laws regulating construction and zoning.

161
162

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163 WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF
164 COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO
165 YOUR PROPERTY.

166

167

168 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR
169 AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

170

171 (Signature of Owner or Agent)

172 (including contractor)

173 STATE OF FLORIDA

174 COUNTY OF _____

175

176

177 Sworn to (or affirmed) and subscribed before me this _____
178 day of _____, (year) , by (name of person making statement)
179 .

180

181 (Signature of Notary Public - State of Florida)

182 (Print, Type, or Stamp Commissioned Name of Notary Public)

183

184 Personally Known _____ OR Produced Identification _____

185

186 Type of Identification Produced _____

187 (Signature of Contractor)

188

189

190 STATE OF FLORIDA

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191 COUNTY OF _____

192

193

194 Sworn to (or affirmed) and subscribed before me this _____

195 day of _____, (year) , by (name of person making statement)

196 .

197

198 (Signature of Notary Public - State of Florida)

199 (Print, Type, or Stamp Commissioned Name of Notary Public)

200

201 Personally Known _____ OR Produced Identification _____

202

203 Type of Identification Produced _____

204

205 (Certificate of Competency Holder)

206

207 Contractor's State Certification or Registration No. _____

208

209 Contractor's Certificate of Competency No. _____

210

211 APPLICATION APPROVED BY

212 _____ Permit Officer

213

214 (b) Consistent with the requirements of paragraph (a), an

215 authority responsible for issuing building permits under this

216 section may accept a building permit application in an

217 electronic format, as prescribed by the authority. Building

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218 permit applications submitted to the authority electronically
219 must contain the following additional statement:

220
221 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of
222 perjury, I declare that all the information contained in this
223 building permit application is true and correct.

224
225 (c) An authority responsible for issuing building permit
226 applications which accepts building permit applications in an
227 electronic format shall provide public Internet access to the
228 electronic building permit applications in a searchable format.

229 Section 2. Paragraph (b) of subsection (1) of section
230 713.18, Florida Statutes, is amended to read:

231 713.18 Manner of serving notices and other instruments.--

232 (1) Service of notices, claims of lien, affidavits,
233 assignments, and other instruments permitted or required under
234 this part, or copies thereof when so permitted or required,
235 unless otherwise specifically provided in this part, must be
236 made by one of the following methods:

237 (b) By sending the same by registered or certified mail,
238 with postage prepaid, or by overnight or second-day delivery
239 with evidence of delivery, which may be in an electronic format.

240 1. If a notice to owner, a notice to contractor under s.
241 713.23, or a preliminary notice under s. 255.05 is mailed by
242 registered or certified mail with postage prepaid to the person
243 to be served at any of the addresses set forth in subparagraph
244 2. within 40 days after the date the lienor first furnishes
245 labor, services, or materials, service of that notice is

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effective as of the date of mailing if the person who served the notice maintains a registered or certified mail log that shows the registered or certified mail number issued by the United States Postal Service, the name and address of the person served, and the date stamp of the United States Postal Service confirming the date of mailing or if the person who served the notice maintains electronic tracking records generated through use of the United States Postal Service Confirm service or a similar service containing the postal tracking number, the name and address of the person served, and verification of the date of receipt by the United States Postal Service.

2. If an instrument served pursuant to this section to the last address shown in the notice of commencement or any amendment thereto or, in the absence of a notice of commencement, to the last address shown in the building permit application, or to the last known address of the person to be served, is not received, but is returned as being "refused," "moved, not forwardable," or "unclaimed," or is otherwise not delivered or deliverable through no fault of the person serving the item, then service is effective on the date the notice was sent.

Section 3. Section 713.35, Florida Statutes, is amended to read:

713.35 Making or furnishing false statement.--Any person, firm, or corporation who knowingly and intentionally makes or furnishes to another person, firm, or corporation, ~~a written statement in the form of~~ a waiver or release of lien, or other document, whether or not under oath, containing

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274 false information about the payment status of subcontractors,
275 sub-subcontractors, or suppliers in connection with the
276 improvement of real property in this state, knowing that the one
277 to whom it was furnished might rely on it, and the one to whom
278 it was furnished will part with draw payments or final payment
279 relying on the truth of such statement as an inducement to do so
280 commits ~~is guilty of~~ a felony of the third degree, punishable as
281 provided in s. 775.082 or s. 775.083. A state attorney or the
282 statewide prosecutor, upon the filing of an indictment or
283 information against a contractor, subcontractor, or sub-
284 subcontractor which charges such person with a violation of this
285 section, shall forward a copy of the indictment or information
286 to the Department of Business and Professional Regulation. The
287 Department of Business and Professional Regulation shall
288 promptly open an investigation into the matter and, if probable
289 cause is found, shall furnish a copy of any investigative report
290 to the state attorney or statewide prosecutor who furnished a
291 copy of the indictment or information and to the owner of the
292 property which is the subject of the investigation.

293 Section 4. This act shall take effect October 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1443

COUNCIL/COMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | ___ | (Y/N) |
| ADOPTED AS AMENDED | ___ | (Y/N) |
| ADOPTED W/O OBJECTION | ___ | (Y/N) |
| FAILED TO ADOPT | ___ | (Y/N) |
| WITHDRAWN | ___ | (Y/N) |
| OTHER | _____ | |

Council/Committee hearing bill:

Representative Russell offered the following:

Amendment

Insert between lines 224 - 225 and insert:

The additional statement is in lieu of the requirement in paragraph (a) that a signed, sworn, and notarized signature of the owner or agent and the contractor be part of the owner's affidavit.

000000

PLEASE NOTE

**ANALYSIS FOR HB 1483
WILL BE AVAILABLE LATER**

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1497

Sunshine Water Control District, Broward County

SPONSOR(S): Sobel

TIED BILLS:

IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|-----------------------------|--------|----------------|----------------|
| 1) Local Government Council | | Smith T. C. S. | Hamby J. A. R. |
| 2) | | | |
| 3) | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

HB 1497 establishes the Sunshine Water Control District (District) in Broward County as a dependent district and incorporates the District's authority into an ordinance of the City of Coral Springs.

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2006-07 or 2007-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill establishes the Sunshine Water Control District in Broward County as a dependent district and repeals and then incorporates chapter 63-609, L.O.F., into an ordinance of the City of Coral Springs.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Sunshine Water Control District (District), an independent special district, was created in 1963 by chapter 63-609, L.O.F. The District was created to provide for drainage, reclamation and improvement of water. The District also has the right to dike, dam and construct levees. The District is governed pursuant to chapter 298, F.S. Each landowner within the District is entitled to one vote per acre of assessable land that he or she owns. Landowners owning less than one acre are entitled to one vote. The District has a three-member board of supervisors. The District currently imposes a special assessment.

Effect of Proposed Changes

This bill repeals chapter 63-609, L.O.F., thereby establishing the Sunshine Water Control District in Broward County as a dependent district and incorporates the District's authority into an ordinance of the City of Coral Springs.

This bill authorizes the City of Coral Springs to provide by ordinance for the election or appointment of a replacement supervisor when a District supervisor's term has expired.

This bill provides that any budget of the District approved subsequent to the effective date of this act be approved by the City of Coral Springs pursuant to the procedures provided in chapters 189 and 200, F.S., and in compliance with the charter of the City of Coral Springs.

This bill provides that except as provided for in this act, nothing will preclude the District from using any power contained in chapter 298, F.S.

The bill provides that all title to property, uncollected taxes and assessments, judgments, causes of action, and property rights held or owned by the District will continue to be vested in the District.

The bill provides that no obligations or contracts, including bonds or causes of action, will be impaired or avoided.

The bill provides that all contracts, franchises, and permits to do business issued by the District will remain in full force and effect according to their terms.

C. SECTION DIRECTORY:

Section 1. Repeals chapter 63-609, L.O.F.

Section 2. Provides upon the expiration of the term of any supervisor of the District for the City of Coral Springs to provide by ordinance for the election or appointment of a replacement supervisor.

- Section 3. Provides that any District budget approved subsequent to the effective date of this act be approved by the City of Coral Springs pursuant to the procedures provided in chapters 189 and 200, F.S., and in compliance with the charter of the City of Coral Springs.
- Section 4. Provides for the status of the District.
- Section 5. Provides that except as provided for in this act, nothing will preclude the District from using any power contained in chapter 298, F.S.
- Section 6. Provides for the continuation of all assets, obligations, contracts, franchises, and permits.
- Section 7. Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? January 27, 2006.

WHERE? Sun-Sentinel, Fort Lauderdale, Broward County; Boca Raton, Palm Beach County; Miami, Miami Dade County, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

The City of Margate passed resolution no. 10-539, endorsing HB 1497, relating to the Sunshine Water Control District and the City of Coral Springs, amending chapter 63-609, L.O.F.

Sandy Harris, Executive Director, of the Broward County Legislative Delegation, submitted a letter stating the following (in part):¹

¹ See Memorandum from Sandy Harris (March 16, 2006) (on file with House of Representatives, Local Government Council).
STORAGE NAME: h1497.LGC.doc
DATE: 3/28/2006

The City of Margate initiated conflict resolution procedures pursuant to chapter 164, F.S., as to the maintenance of the property of the Sunshine Water Control District. The City of Margate determined that large trees on the property owned by the Sunshine Water Control District along the boundary between the City of Coral Springs and the City of Margate remain felled on the property of the Sunshine Water Control District and property within the City of Margate. The fallen trees are a result of Hurricane Wilma.

The properties of the Sunshine Water Control District are totally within the boundaries of the City of Coral Springs. However, the fallen trees have precluded many Margate residents who own property along the boundary between the City of Coral Springs and the City of Margate from utilizing their backyards for any purpose. In addition, the trees pose a danger to ingress and egress for Margate emergency employees and otherwise interfere with property within the City of Margate.

The District previously disclaimed any responsibility for the cause or maintenance of the above nuisance in spite of the fact that minutes of the District's Board demonstrate that the District was well aware of the potential liability. Excerpts from the minutes of the Board Meetings show that the District had discussed taking preemptive action to avoid damage to adjacent properties as a result of trees being damaged during a hurricane as long ago as 1995. However, no action was taken. At a meeting between the District and the City of Margate, the District committed to a plan for clean up of the downed trees.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

SUN-SENTINEL
PUBLISHED DAILY
FORT LAUDERDALE, BROWARD COUNTY, FLORIDA
BOCA RATON, PALM BEACH COUNTY, FLORIDA
MIAMI, MIAMI DADE COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF BROWARD/PALM BEACH/MIAMI DADE
BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED

_____, WHO, ON OATH, SAYS THAT
HE/SHE IS A DULY AUTHORIZED REPRESENTATIVE OF THE CLASSIFIED
DEPARTMENT OF THE SUN-SENTINEL, DAILY NEWSPAPER PUBLISHED
IN BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA, AND THAT THE
ATTACHED COPY OF ADVERTISEMENT, BEING A:

NOTICE OF LEGISLATION

IN THE MATTER OF:

Sunshine Water Control District

IN THE CIRCUIT COURT, WAS PUBLISHED IN SAID NEWSPAPER IN THE
ISSUES OF:

1/27

12691667

AFFIANT FURTHER SAYS THAT THE SAID SUN-SENTINEL IS A NEWSPAPER
PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA,
AND THAT THE SAID NEWSPAPER HAS HERETOFORE BEEN CONTINUOUSLY
PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA,
EACH DAY, AND HAS BEEN ENTERED AS SECOND CLASS MATTER AT THE
POST OFFICE IN FORT LAUDERDALE, IN SAID BROWARD COUNTY, FLORIDA,
FOR A PERIOD OF ONE YEAR NEXT PRECEDING THE FIRST PUBLICATION OF
ATTACHED COPY OF ADVERTISEMENT; AND AFFIANT FURTHER SAYS THAT
HE/SHE HAS NEITHER PAID, NOR PROMISED, ANY PERSON, FIRM, OR
CORPORATION, ANY DISCOUNT, REBATE, COMMISSION, OR REFUND, FOR THE
PURPOSE OF SECURING THIS ADVERTISEMENT FOR PUBLICATION IN SAID
NEWSPAPER.

(SIGNATURE OF AFFIANT)

SWORN TO AND SUBSCRIBED BEFORE ME
ON: 27-January-2006, A.D.

(SIGNATURE OF NOTARY PUBLIC)
Commission # 00326508
Expires June 6, 2008
STATE OF FLORIDA
Shirley K. Kelly, Notary Public, Inc. 400-385-7019

(NAME OF NOTARY, TYPED, PRINTED, OR STAMPED)

PERSONALLY KNOWN _____ OR

PRODUCED IDENTIFICATION _____

NOTICE OF LEGISLATION
Notice is hereby given
that the following bill will
be presented to the 2006
Legislative Session of the
Florida Legislature for
consideration and enact-
ment.
A bill to be entitled
An Act relating to the
Sunshine Water Control
District and the City of Co-
ral Springs, Florida; pro-
viding for classification
and status of the district;
providing for election or
appointment of supervis-
ors; providing for powers
of the district; providing
for approval of the budget
of the district; providing
for powers and responsi-
bilities of the district.
January 27, 2006

**HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION**

BILL #: HB 1497
SPONSOR(S): Rep. Eleanor Sobel
RELATING TO: Sunshine Water Control District, Broward County
(Indicate Area Affected (City, County, Special District) and Subject)
NAME OF DELEGATION: Broward County Legislative Delegation
CONTACT PERSON: Sandy Harris
PHONE # and E-Mail: 922-9833 saharris@broward.org

- I. House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES ☒ NO ☐

(2) Has a public hearing been held? YES ☒ NO ☐

Date hearing held: 3/3/06

Location: City of Margate Commission Chambers

(3) Was this bill formally approved by a majority of the delegation members? YES ☒ NO ☐ UNIT RULE ☐ UNANIMOUS ☐

- II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES ☒ NO ☐ DATE 1-27-06

Where? Sun-Sentinel County Broward County

Referendum in lieu of publication: YES ☐ NO ☒

- III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional taxation requirement been met?
YES ☐ NO ☐ NOT APPLICABLE ☒

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Eleanor Sobel 03/07/06
Delegation Chair (Original Signature) Date

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: HB 1497
SPONSOR(S): Representative Eleanor Sobel
RELATING TO: Sunshine Water Control District
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

| | FY 06-07 | FY 07-08 |
|---------------|----------|----------|
| Expenditures: | 0 | 0 |

II. ANTICIPATED SOURCE(S) OF FUNDING:

| | FY 06-07 | FY 07-08 |
|----------|----------|----------|
| Federal: | 0 | 0 |
| State: | 0 | 0 |
| Local: | 0 | 0 |

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

| | FY 06-07 | FY 07-08 |
|-----------|----------|----------|
| Revenues: | 0 | 0 |

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: None

Disadvantages: None

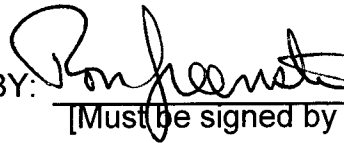
V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

None

PREPARED BY:



[Must be signed by Preparer]

Date

TITLE: Representative Ron Greenstein

REPRESENTING: City of Margate

PHONE: (954-956-5600)

E-Mail Address: ron.greenstein@myfloridahouse.gov

HB 1497

2006

A bill to be entitled

An act relating to the Sunshine Water Control District, Broward County; repealing chapter 63-609, Laws of Florida, the enacting law of the district, and providing for incorporation thereof as an ordinance of the City of Coral Springs; providing for classification and status of the district; providing for election or appointment of supervisors; providing for approval of the budget of the district; providing for powers and responsibilities of the district; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 63-609, Laws of Florida, is hereby repealed, except that said special act is hereby declared to be an ordinance of the City of Coral Springs subject to the procedure of amendment and repeal as any other duly enacted ordinance of the City of Coral Springs in conformance with this act.

Section 2. Notwithstanding chapter 298, Florida Statutes, upon the expiration of the term of any supervisor of the Sunshine Water Control District, the City of Coral Springs may provide for the election or appointment of a replacement supervisor by ordinance of the City of Coral Springs.

Section 3. Notwithstanding anything contained in chapter 63-609, Laws of Florida, any budget of the Sunshine Water Control District approved subsequent to the effective date of this act shall be approved by the City of Coral Springs pursuant

HB 1497

2006

29 to the procedures provided for in chapters 189 and 200, Florida
 30 Statutes, and in compliance with the Charter of the City of
 31 Coral Springs.

32 Section 4. Subsequent to the effective date of this act,
 33 the Sunshine Water Control District shall be determined to be a
 34 dependent special district of the City of Coral Springs.

35 Section 5. Nothing in this act shall preclude the Sunshine
 36 Water Control District from using any power contained in chapter
 37 298, Florida Statutes, except as provided in this act.

38 Section 6. All title to property, uncollected taxes and
 39 assessments, judgments, causes of action, and property rights
 40 held or owned by the Sunshine Water Control District shall
 41 continue to be vested in the Sunshine Water Control District,
 42 and no obligations or contracts, including bonds or causes of
 43 action, shall be impaired or avoided by this act. All contracts,
 44 franchises, and permits to do business issued by the Sunshine
 45 Water Control District shall remain in full force and effect
 46 according to their terms.

47 Section 7. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1531

West Palm Beach Water Catchment Area, Palm Beach County

SPONSOR(S): Brandenburg

TIED BILLS:

IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|---------|---------------------|---------------------|
| 1) <u>Local Government Council</u> | <u></u> | <u>Smith T.L.S.</u> | <u>Hamby J.J.R.</u> |
| 2) <u>Water & Natural Resources Committee</u> | <u></u> | <u></u> | <u></u> |
| 3) <u></u> | <u></u> | <u></u> | <u></u> |
| 4) <u></u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

HB 531 revises the boundaries of the West Palm Beach Water Catchment Area (Area) to reflect the resolution of the dispute between the City of West Palm Beach and Palm Beach County by defining respective retail utility service areas between the City and the County. The boundaries agreed to are intended to eliminate or minimize duplication of facilities and to provide for growth, expansion and extension of respective water, wastewater, and reclaimed water utility systems. The bill also authorizes the City to grant licenses permitting utility crossings of the M-Canal.

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2006-07 or 2007-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

The West Palm Beach Water Catchment Area (Area) was created in 1967 by chapter 67-2169, L.O.F. Also known as the Grassy Waters Preserve, the Area is the principal source of supply of potable and domestic water used by the public and managed by the City of West Palm Beach Public Utilities Department.

The bill revises the boundaries of the Area to reflect the resolution of the dispute between the City of West Palm Beach and Palm Beach County by defining respective retail utility service areas between the City and the County. The boundaries agreed to are intended to eliminate or minimize duplication of facilities and to provide for growth, expansion and extension of respective water, wastewater, and reclaimed water utility systems.¹ The bill also authorizes the City to grant licenses permitting utility crossings of the M-Canal.

C. SECTION DIRECTORY:

Section 1. Amends sections 1 and 2 of chapter 67-2169, L.O.F., relating to the West Palm Beach Water Catchment Area.

Section 1. Amends the boundaries of the West Palm Beach Water Catchment Area.

Section 2. Authorizes the licensing or permitting of certain uses within the water catchment area.

Section 2. Provides effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? March 3, 2006.

WHERE? *The Palm Beach Post*, West Palm Beach, Palm Beach County, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

¹ See Palm Beach County Board of County Commissioners Agenda Item #6D-1 (December 12, 2005) (on file with House of Representatives, Local Government Council).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

THE PALM BEACH POST
Published Daily and Sunday
West Palm Beach, Palm Beach County, Florida

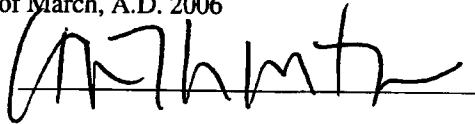
PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared **Kristi Morrow**, who on oath says that she is **Customer Service Supervisor** of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a **Notice** in the matter of **Intent to Seek Legislation** was published in said newspaper in the issues of **January 26, 2006**. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



Sworn to and subscribed before 3rd day of March, A.D. 2006



Personally known XX or Produced Identification _____
Type of Identification Produced _____



Karen M. McLinton
Commission #DD359566
Expires: NOV 15, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

NO. 5062756
PUBLIC NOTICE
NOTICE OF INTENT TO
SEEK LEGISLATION
The City of West Palm Beach hereby gives notice of its intent to seek introduction and legislative approval of a special act by the Florida Legislature during the 2006 regular Legislative Session. The proposed legislation will amend Chapter 67-2168, Laws of Florida relating to the City of West Palm Beach Water Catchment Area by correcting certain survey errors in the Area boundary, removing a proposed roadway from the M canal right-of-way and authorizing the City to grant licenses for utility crossings of the M Canal.
Lois J. Frankel
Mayor
PUB: The Palm Beach Post
January 26, 2006

HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION

BILL #: _____
SPONSOR(S): Rep. Mary Brandenburg
RELATING TO: City of West Palm Beach
[Indicate Area Affected (City, County, Special District) and Subject]
NAME OF DELEGATION: Palm Beach County
CONTACT PERSON: Ed Chase, Executive Director
PHONE # and E-MAIL: 561/355-2406 echase@pbcgov.com

I. House policy requires that three things occur before a Council or Committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the bill's purpose cannot be accomplished at the local level; (2) a local public hearing must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. Local bills will not be considered by a Council or Committee without a completed, original Local Bill Certification Form.

Does the delegation certify that the purpose of the bill cannot be accomplished locally?
YES ☒ NO ☐

Has a public hearing been held? YES ☒ NO ☐

Date hearing held: January 30, 2006
Location: Palm Beach, Florida

Was this bill formally approved by a majority of the delegation members?
YES ☐ NO ☐ UNIT RULE ☐ UNANIMOUS ☒

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided in general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this Constitutional requirement been met?

Notice published: YES ☒ NO ☐ **Date:** January 26, 2006
Where? Palm Beach Post **County:** Palm Beach

Referendum in lieu of publication: YES ☐ NO ☒

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional requirement been met?
YES ☐ NO ☐ NOT APPLICABLE ☒

House policy requires that an Economic Impact Statement for Local Bills be prepared at the local level.

Carl A. Bormis 3 Feb 2006
Delegation Chair (Original Signature) Date

HOUSE LOCAL GOVERNMENT COUNCIL
2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a Council or Committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact.

BILL #: _____

SPONSOR(S): Representative Mary Brandenburg _____

RELATING TO: City of West Palm Beach Water Catchment Area _____
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

| | <u>FY 06-07</u> | <u>FY 07-08</u> |
|---------------|-----------------|-----------------|
| Expenditures: | \$0 | \$0 |

II. ANTICIPATED SOURCE(S) OF FUNDING:

| | <u>FY 06-07</u> | <u>FY 07-08</u> |
|----------|-----------------|-----------------|
| Federal: | N/A | N/A |
| State: | | |
| Local: | | |

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

| | <u>FY 06-07</u> | <u>FY 07-08</u> |
|-----------|-----------------|-----------------|
| Revenues: | \$0 | \$0 |

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: Correction of boundary survey error; codification of previous boundary agreement with area landowners; removal of road right-of-way requested by Palm Beach County.

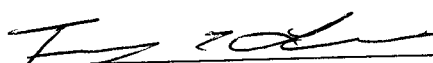
Disadvantages: None.

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None.

VI. DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDE SOURCE[S] OF DATA):

Review of previous legislation and landowner and interlocal agreements.

PREPARED BY:  6/24/06
[Must be signed by Preparer] Date

TITLE: Special Counsel _____

REPRESENTING: City of West Palm Beach _____

PHONE: (561) 640-0820 _____

HB 1531

2006

A bill to be entitled

An act relating to the West Palm Beach Water Catchment Area, Palm Beach County; amending chapter 67-2169, Laws of Florida, as amended; revising the legal description of the water catchment area; authorizing the licensing or permitting of certain uses within the water catchment area; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Sections 1 and 2 of chapter 67-2169, Laws of Florida, as amended, are amended to read:

Section 1. West Palm Beach Water Catchment area described.--The following described lands in Palm Beach County, Florida, owned by the City of West Palm Beach, Florida, form the West Palm Beach water catchment area, to wit:

PARCEL ONE.

The South four hundred fifty feet (450') of the Southwest quarter (SW 1/4) of Section one (1) in Township forty-three South (43 S), Range forty-two East (42 E), except right-of-way of Military Trail and Haverhill Road.

PARCEL TWO.

HB 1531

2006

The South four hundred fifty feet (450') of the Southeast quarter (SE 1/4) and the entire Southwest quarter (SW 1/4) of Section two (2) of Township forty-three South (43 S), Range forty-two East (42 E), except right-of-way for Haverhill Road subject, however, to that certain easement from Model Land Company to Florida Power and Light Company dated September 16, 1931, to construct and operate power lines on the East side of said property.

Said PARCEL TWO being also subject to 160 ft. width electric power and communication line easement as granted by West Palm Beach Water Company unto Florida Power and Light Company by right-of-way agreement dated June 23, 1953, recorded in Deed Book 1023, page 680, Palm Beach County Public Records. (Less Right-of-Way of Haverhill Road.)

PARCEL THREE.

The South half (S 1/2) of Section three (3), Township forty-three South (43 S), Range forty-two East (42 E).

Less and except Jog Road extension described as follows:

A parcel of land in Section three (3), Township forty-three South (43 S), Range forty-two East (42 E), Palm

56 Beach County, Florida, more particularly described as
57 follows: Commence at the southeast corner of said
58 Section three (3); thence along the south line of said
59 Section three (3), N 88°43'44" W for 302.06 feet to
60 the West right-of-way line of Florida's Turnpike,
61 recorded in Circuit Court Minutes Book 68, page 204,
62 of the public records of Palm Beach County, Florida;
63 thence along said right-of-way line, N 01°54'17" E for
64 2,188.38 feet to the point of curvature of a curve
65 concave to the east, having a radius of 43,121.85
66 feet; thence northerly, along said curve and right-of-
67 way line to the right, through a central angle of
68 0°39'37" for 496.98 feet to the north line of the
69 South half (S 1/2) of said Section three (3); thence
70 along said north line, N 88°33'32" W for 166.86 feet
71 to a non-tangent curve, concave to the west, having a
72 radius of 657.00 feet, where a radial line bears S
73 85°35'16" W; thence southerly, along said curve to the
74 right, through a central angle of 6°19'01" for 72.44
75 feet to a point of tangency; thence S 01°54'17" W for
76 2,613.48 feet to the said south line of Section three
77 (3); thence along said south line, S 88°43'44" E for
78 160.01 feet to the Point of Beginning.

PARCEL FOUR.

82 The North four hundred fifty feet (450') of Section
83 eleven (11), Township forty-three 43 South (43 S),

HB 1531

2006

Range forty-two 42 East (42 E), except right-of-way
for Haverhill Road.

PARCEL FIVE.

The North four hundred fifty feet (450') of Northwest
quarter (NW 1/4) of Section twelve (12), Township
forty-three South (43 S), Range forty-two East (42 E),
as conveyed to West Palm Beach Water Company by Model
Land Company's two deeds of July 12, 1944, recorded in
Deed Book 694, page 317, and Deed Book 694, page 319,
subject to right-of-way of Military Trail. (Less
Right-of-Way of Haverhill Road.)

Subject also to easement from Model Land Company to
Florida Power and Light Company dated September 16,
1931, to construct and operate power lines on west
side of said North half (N 1/2) of Northwest quarter
(NW 1/4) of said Section twelve (12). ~~12,~~

PARCEL SIX.

The North half (N 1/2) ~~One-Half~~ of the North half (N
1/2) ~~One-Half~~ of the Northwest quarter (NW 1/4) ~~One-~~
~~Quarter~~ of the Northeast quarter (NE 1/4) ~~One-Quarter~~,
Section ten (10), Township forty-three South (43 S),
Range forty-two East (42 E).

HB 1531

2006

PARCEL SEVEN.

All of Section seventeen (17) lying South of Seaboard Air Line Railway, all of Sections eighteen (18), nineteen (19) and twenty (20), all of Section twenty-one (21) south of Seaboard Air Line Railway; all of Sections twenty-eight (28), twenty-nine (29), thirty (30), thirty-one (31), thirty-two (32) and thirty-three (33), all being in Township forty-two ~~(42)~~ South (42 S), Range forty-two East (42 E).

PARCEL EIGHT.

That part of South one-half (S 1/2) of Section sixteen (16), Township forty-two ~~(T-42)~~ South (42 S), Range forty-two ~~(R-42)~~ East (42 E), lying south and west of right-of-way of Florida Western and Northern Railroad Company as described in Deed Book 225, Page 160, of Palm Beach County public records, now owned by Seaboard Air Line Railroad Company.

Said PARCELS SEVEN and EIGHT being subject to easement of Palm Beach County, Florida, for public road known as Lake Park Road across said sections 16-17-18-19-20-21.

Said Sections 17-18 in said PARCEL SEVEN being also subject to agreement between West Palm Beach Water

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Company and Palm Beach County by Deed of February 26,
1951, recorded in Deed Book 936, page 151, permitting
removal by said County of shell not exceeding 15 ft.
in depth by the present level of water from said land.

Part of said Section thirty-two (32) ~~32~~ of Township 42
South (42 S), Range 42 East (42 E) in said PARCEL
SEVEN being subject to an estate, for its ~~his~~ natural
life, in Ike Lee, with remainder to Model Land
Company, its successors and assigns, as described in
Indenture of August 21, 1942, between J.C. Bills, Jr.,
et als, parties of the first part, Ike Lee, party of
the second part, and Model Land Company, party of the
third part, recorded Deed Book 656, page 102, Public
Records, Palm Beach County, Florida.

PARCEL NINE.

All of Sections four (4), five (5), six (6), seven
(7), eight (8), nine (9), seventeen (17) and eighteen
(18), all being in Township forty-three ~~(43)~~ South (43
S), Range forty-two ~~(42)~~ East (42 E).

PARCEL TEN.

All of the following described lands:

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167 Starting at the southeast corner of Section 4, T 43 S,
 168 R 40 E, proceed westerly a distance of 329.57' more or
 169 less to the point of beginning, said point being on
 170 the north R/W line of the Central and Southern Florida
 171 Flood Control District L-8 tie back canal. From said
 172 point of beginning, proceed westerly a distance of
 173 170.42' more or less to a point; thence proceed N 00°
 174 05' 50" a distance of 339.29' more or less to a point;
 175 thence proceed easterly a distance of 170' more or
 176 less to a point; thence proceed N 00° 05' E a distance
 177 of 1,203.89', more or less to a point; thence N 45° E
 178 a distance of 467.50' more or less to a point on the
 179 east line of Section 4, T 43 S, R 40 E; thence S 00°
 180 05' W a distance of 354.16' more or less to a point;
 181 thence S 45° 00' W a distance of 113.34' to a point;
 182 thence S 00° 05' W a distance of 1,190.74' more or
 183 less to a point on the North R/W line of the Central
 184 and Southern Florida Flood Control District L-8 tie
 185 back canal; thence S 45° 08' 50" E a distance of
 186 352.64' to the point of beginning; all the above
 187 described lands lying in Section 4, T 43 S, R 40 E and
 188 containing 10.83 acres, more or less.

189
 190 Starting at the southwest corner of Section 3, T 43 S,
 191 R 40 E proceed N 00° 05' E a distance of 1,430.16'
 192 more or less to the point of beginning. From said
 193 point of beginning proceed N 00° 05' E a distance of
 194 354.16' more or less to a point; thence N 45° 00' E a

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195 distance of 3,550.36' more or less, to a point on the
196 north line of Section 3, T 43 S, R 40 E; thence S 87°
197 46' E a distance of 340.54' more or less to a point;
198 thence S 45° 00' W a distance of 4,032.32' more or
199 less to the point of beginning. All of the above
200 described lands lie in Section 3, T 43 S, R 40 E and
201 contain 21.75 acres, more or less.
202

203 Starting at the southeast corner of Section 34, T 42
204 S, R 40 E proceed northerly a distance of 80' more or
205 less to the point of beginning; thence N 87° 46' W a
206 distance of 2,802.44' more or less, to a point; thence
207 S 45° 00' W a distance of 108.97', more or less to a
208 point on the south line of Section 34, T 42 S, R 40 E;
209 thence N 87° 46' W a distance of 340.54' more or less,
210 to a point; thence N 45° 00' E a distance of 449.51'
211 more or less to a point; thence S 87° 46' E a distance
212 of 2,902.00' more or less to a point; thence southerly
213 a distance of 250.19' more or less to the point of
214 beginning; said described lands containing 18.52 acres
215 more or less and lie wholly in Section 34, T 42 S, R
216 40 E.
217

218 Starting at the southwest corner of Section 35, T 42
219 S, R 40 E proceed northerly a distance of 80' more or
220 less, to the point of beginning; thence proceed
221 northerly a distance of 250' more or less to a point;
222 thence proceed S 87° 46' E a distance of 5,262.93'

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223 more or less to a point; thence N 88° 37' E a distance
 224 of 12.87' more or less to a point; thence proceed
 225 southerly a distance of 250' more or less to a point;
 226 thence proceed S 88° 37' W a distance of 3.12' more or
 227 less to a point; thence proceed N 87° 46' W a distance
 228 of 5,272.68' more or less to the point of beginning;
 229 all above described lands lying in Section 35, T 42 S,
 230 R 40 E and containing 30.2 acres, more or less.

231
 232 Starting at the southwest corner of Section 36, T 42
 233 S, R 40 E, proceed northerly a distance of 80' more or
 234 less to the point of beginning; thence proceed
 235 northerly a distance of 250' more or less to a point;
 236 thence proceed N 88° 37' E a distance of 5,287.66'
 237 more or less to the southwest corner of Section 31, T
 238 42 S, R 41 E; thence proceed S 1° 41' W a distance of
 239 250.11' more or less, to a point; thence proceed S 88°
 240 37' W a distance of 5,281.62' more or less to the
 241 point of beginning; the above described lands lying in
 242 Section 36, T 42 S, R 40 E and containing 30.3 acres,
 243 more or less.

244
 245 Less and except that portion of Sections 35 and 36,
 246 Township 42 South, Range 40 East, as described above,
 247 that lie North of the following described line:

248
 249 Commencing at the northwest corner of said Section 35;
 250 thence S 00 05' 34" E, along the West line of said

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251 Section 35, 5,205.17 feet to a point lying 82.04 feet
 252 north of (as measured along said West line) the "Royal
 253 Palm Beach Colony" south line of said Section 35 and
 254 the Point of Beginning of the herein described line;
 255 thence S 87 38' 00" E, 983.00 feet; thence S 87 51'
 256 58" E, 3,082.46 feet; thence S 87 57' 41" E, 1,210.03
 257 feet; thence N 88 43' 01" E, 7.93 feet to a point on
 258 the East line of said Section 35, said point lying
 259 57.90 feet north of (as measured along said East line)
 260 the said south line of Section 35 also being the West
 261 line of Section 36; thence continue N 88 43' 01" E,
 262 779.85 feet; thence S 89 29' 30" E, 525.09 feet;
 263 thence S 89 07' 06" E, 283.89 feet; thence N 88 39'
 264 13" E, 2,494.69 feet; thence N 88 29' 15" E, 1,207.18
 265 feet to a point on the East line of said Section 36,
 266 said point lying 336.46 feet north of (as measured
 267 along said East line) the said "Royal Palm Beach
 268 Colony" south line of Section 36 and the Point of
 269 Termination of the herein described line.

270
 271 Said Sections are as shown on the M Canal R/W Map as
 272 recorded in Road Plat Book 6, pages 136-141, Public
 273 Records of Palm Beach County, Florida.

274
 275 The north 250' of Section 6, T 43 S, R 41 E.

276
 277 The north 250' of Section 5, T 43 S, R 41 E.

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279 Beginning at the southwest corner of Section 33, T 42
 280 S, R 41 E proceed N 59° 47' E a distance of 660' more
 281 or less to a point; thence N 89° 47' E a distance of
 282 4,720.0' more or less to a point on the east line of
 283 said Section 33, said point being 330' more or less to
 284 a point northerly from the southeast corner of said
 285 Section 33. From the above described point proceed
 286 southerly a distance of 250' more or less to a point;
 287 thence proceed S 89° 47' W a distance of 4,490.16'
 288 more or less to a point; thence S 59° 47' W a distance
 289 of 160' more or less to a point on the south line of
 290 Section 33, T 42 S, R 41 E; thence S 89° 47' W a
 291 distance of 661.58' more or less to the point of
 292 beginning; all above described land lying in Section
 293 33, T 42 S, R 41 E, containing 29.5 acres, more or
 294 less.

295
 296 Beginning at the northwest corner of Section 4, T 43
 297 S, R 41 E proceed N 89° 47' E a distance of 661.58'
 298 more or less to a point; thence S 59° 47' W a distance
 299 of 500' more or less to a point; thence S 89° 47' W a
 300 distance of 229.51' more or less to a point on the
 301 west line of said Section 4; thence northerly a
 302 distance of 250' more or less to the point of
 303 beginning; all above described land lying in Section
 304 4, T 43 S, R 41 E, containing 2.57 acres more or less.
 305 The south 330' of Section 34, T 42 S, R 41 E less the

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south 80' thereof, containing 30.36 acres, more or
less.

The south 330' of Section 35, T 42 S, R 41 E less the
south 80' thereof, containing 30.36 acres, more or
less.

The south 330' of Section 36, T 42 S, R 41 E less the
south 80' thereof, containing 30.36 acres, more or
less (less R/W of State Road 7).

Section 2. Uses.--It shall be mandatory that the City of
West Palm Beach retain in perpetuity full ownership and control
and shall not lease or grant any license for any part of the
water catchment area which is inconsistent with water supply,
environmental, educational, or conservation purposes, including,
but not limited to, environmental mitigation. No use of the
water catchment area shall be made by the city which is
inconsistent with water supply, environmental, educational, or
conservation purposes, which purposes include, but are not
limited to, environmental mitigation purposes. The City of West
Palm Beach may grant licenses permitting the construction,
installation, maintenance, and removal of crossings above,
below, and across the M-Canal by water, wastewater, gas, or
other utility pipes and electric or other utility lines and for
the construction, expansion, extension, relocation, and
maintenance of government roadways across the M-Canal, provided
such crossings are not inconsistent with the uses established in

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334 this section and such crossings are not inconsistent with this
335 act or applicable laws and regulations governing Class I potable
336 water supplies and the water catchment area.

337 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS


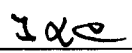
BILL #: HB 1559

Brevard County

SPONSOR(S): Poppell

TIED BILLS:

IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|-----------------------------|--------|--|---|
| 1) Local Government Council | | Camechis  | Hamby  |
| 2) Finance & Tax Committee | | | |
| 3) | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

This bill creates the Viera Stewardship District (district), which encompasses approximately 14,000 undeveloped acres within Brevard County, for the purpose of providing community development systems, facilities, services, projects, improvements, and infrastructure to the area. The bill provides the minimum requirements that must be included in the charter when creating an independent special district. The bill authorizes the district to provide for and fund: water management and control, water supply, sewer, and wastewater management, reclamation, and reuse; privatization contracting; bridges or culverts; roadways and roads, parkways, hardscaping, landscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, road striping; parking facilities; buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, related signage; costs associated with cleanup of actual or perceived environmental contamination within the district; conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property; parks and facilities for indoor and outdoor recreational, cultural, and educational uses; fire prevention and control; school buildings and related structures; security; mosquitoes and other public health nuisance arthropods control; waste, waste collection, and disposal; impact fee credit agreements; buildings and structures for district offices, maintenance facilities, meeting facilities, community centers, or any other project authorized by this bill. The district may, using its general and special powers, provide any project within or without the boundaries of the district when the project is the subject of an agreement between the district and the Brevard County Board of County Commissioners or with any other applicable public or private entity, or is approved or required by a development order and is not inconsistent with the effective local comprehensive plan.

The district may levy user charges and fees; non-ad valorem maintenance taxes as authorized by general law; and special assessments. The district may impose ad valorem taxes not to exceed 3 mills upon voter approval at referendum conducted after the entire board is elected by electors of the district.

The bill creates a five-member Board of Supervisors to govern the district. The Board is initially elected on a one-acre/one-vote basis, however, as population in the district increases, members are elected by qualified electors of the district. Five years after creation, one board member will be elected by qualified electors, and ten years after creation a second board member is elected by qualified electors. When the district is populated by 60 percent of the projected total qualified electors, the third governing board member is elected by qualified electors. Five years later, all five board members are elected by qualified electors. It is not known when the district will be populated by 60 percent of the projected total qualified electors.

The attached Economic Impact Statement does not project any fiscal impact in FY 05-06 and FY 06-07; however, the district is authorized to levy special assessments, fees, non ad-valorem assessments, and ad valorem taxes (upon approval at referendum) but the amount of revenues generated by these assessments is indeterminate. The district is authorized to perform numerous functions and undertake a wide range of projects within the district; therefore, expenditures are expected to be substantial but indeterminate.

This bill appears to provide exemptions from the provisions of general law. Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. [Please see p. 20 of this analysis.]

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1559.LGC.doc

DATE: 4/2/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This bill creates an independent special district that is authorized to perform a wide range of functions within its jurisdictional boundaries and extraterritorially, and that may adopt a wide range of administrative rules pursuant to ch. 120, F.S.

Provide for Lower Taxes: The district is authorized to raise revenues by levying ad valorem taxes up to 3 mills, if approved at referendum; non-ad valorem maintenance taxes; non-ad valorem assessments; benefit special assessments; maintenance special assessments; special assessments; and fees, or service charges.

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

Special Districts Generally

Independent special districts are limited forms of government created to perform specialized functions. Special districts have no home rule power; rather, they only have the powers expressly provided by, or which can be reasonably implied from, the authority legislatively provided in their charter.

Chapter 189, F.S., is the "Uniform Special District Accountability Act" (Act). The Act provides that it is the specific intent of the Legislature that independent special districts may only be created by legislative authorization as provided in the Act.

Section 189.404, F.S., prohibits special acts creating independent special districts that are exempt from general law requirements regarding:

- General requirements and procedures for elections (s. 189.405, F.S.);
- Bond referenda requirements (s. 189.408, F.S.);
- Bond issuance reporting requirements (s. 189.4085, F.S.);
- Public facilities reports (s. 189.415, F.S.); and
- Notice, meetings, and other required reports and audits (ss. 189.417 & 189.418, F.S.).

Section 189.404(2), F.S., requires submission of a statement to the Legislature documenting the purpose of the proposed district; the authority of the proposed district; and an explanation of why the district is the best alternative. In addition, that section requires submission of a resolution or official statement issued by the appropriate local governing body in which the proposed district is located affirming that the creation of the proposed district is consistent with approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

Section 189.404(5), F.S., requires the charter of any newly created special district to contain a reference to the status of the special district as dependent or independent. Section 189.404(2)(a), F.S., prohibits special laws which create independent districts that do not, at a minimum, conform to the minimum requirements in s. 189.404(3), F.S. The charters of independent districts must address and include certain provisions, including geographical boundaries, taxing authority, bond authority, and Board selection procedures.

In addition to these extensive requirements for local bills creating independent special districts, other criteria mandated by the Florida Constitution must be fulfilled including notice requirements applicable to all local bills.

Election Procedure for Independent Special Districts Generally

The bill specifies that “[t]he transition process described herein is intended to be in lieu of the process set forth in section 189.4051, Florida Statutes.” Section 189.4051, F.S., provides a transition process for boards of special districts to convert from board members elected on a one-acre-one vote basis, to board members elected by qualified electors of the district. That section requires a referendum to be called by the board of a district that is elected on a one-acre/one vote basis on the question of whether certain members of a district governing board should be elected by qualified electors, provided that all of the following conditions are satisfied at least 60 days prior to the referendum:

1. The district has a total population of at least 500 qualified electors; and
2. A petition signed by 10 percent of the qualified electors is filed with the governing board and certified by the supervisor of elections.

If the qualified electors approve the election procedures described in s. 189.4051(2), F.S., the board must be increased to five members and elections must be held pursuant to that provision. After approval, the board must prepare maps of the district describing the “urban areas”¹ within the district. A process is provided in statute for landowners or qualified electors to contest the accuracy of the urban area maps. Upon adoption of the urban area maps by the board, the maps are used to determine the extent of urban area within the district and the number of governing board members to be elected by qualified electors and those elected on a one-acre/one-vote basis.

If the electors disapprove the election procedure, elections of board members continue as described by general law or enabling legislation of the district.

Community Development Districts

Chapter 190, F.S., the Uniform Community Development District Act, allows for the establishment of independent special districts with governmental authority to manage and finance infrastructure for planned developments. Community Development Districts (CDDs) must be contained within the boundaries of a single county. CDDs consisting of 1,000 acres or more must be created by rule adopted by the Florida Land and Water Adjudicatory Commission granting a petition for the establishment of the CDD, whereas CDDs with less than 1,000 acres must be created pursuant to county ordinance.

Initial financing is typically through the issuance of tax-free bonds, with the corresponding imposition of ad valorem taxes, special assessments, or service charges. Consequently, the burden of paying for the infrastructure is imposed on those buying land, housing, and other structures in the district -- not on the other taxpayers of the county or municipality in which the district is located. As of November 2003, there were 210 active CDDs in Florida.

Section 190.012, F.S., specifies the types of infrastructure CDDs are authorized to provide, including infrastructure relating to water management and control; water supply, sewer and waste water management, reclamation, and reuse; bridges or culverts; roads; street lights; parks and other outdoor recreational, cultural, and educational facilities; fire prevention and control; school buildings; security; mosquito control; and waste collection and disposal. CDDs are governed by an elected five-member board of supervisors, who possess the general managerial authority provided to other special districts in the state. This includes the authority to hire and fix the compensation of a general manager; the right

¹ Section 189.4051(1)(b), F.S., defines “urban area” as “a contiguous developed and inhabited urban area within a district with a minimum average resident population density of at least 1.5 persons per acre as defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas must be designated by the governing board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the district.”

to contract; to borrow money; to adopt administrative rules pursuant to ch. 120, F.S.; and the power of eminent domain.²

Election Procedures for Community Development Districts Generally

Section 190.006(3), F.S., provides for the transition of Community Development District (CDD) boards that are elected by landowners to boards elected by qualified electors of the districts. If a CDD wishes to exercise ad valorem taxing power, the district board must call an election at which the members of the board of supervisors will be elected by qualified electors. Each member must be elected by the qualified electors of the district for a term of 4 years, except that, at the first such election, three members are elected for a period of 4 years and two members for a period of 2 years. All elected board members must be qualified electors of the district.

Regardless of whether a district has proposed to levy ad valorem taxes, commencing 10 years after the initial appointment of members, the position of each member whose term has expired must be filled by a qualified elector of the district, elected by the qualified electors of the district. However, if, in the 10th year after initial appointment for districts exceeding 5,000 acres in area, there are not at least 500 qualified electors, members of the board continue to be elected by landowners.

If a district has less than 50 qualified electors when the District is created, after the 10th year and, once a district reaches 250 or 500 qualified electors, respectively, then the positions of two board members whose terms are expiring must be filled by qualified electors of the district, elected by the qualified electors of the district for 4-year terms. The remaining board member whose term is expiring must be elected for a 4-year term by the landowners and is not required to be a qualified elector. Thereafter, as terms expire, board members must be qualified electors elected by qualified electors of the district for a term of 4 years.

Once a district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district must be held at the general election in November.

EFFECT OF PROPOSED CHANGES

This bill creates the Viera Stewardship District (district), a "public body corporate and politic, an independent, limited, special purpose local government, an independent special district." The general purpose of the district is to provide, through a special purpose governmental entity, certain capital infrastructure, facilities and services which benefit the residents of the district. The boundaries of the district encompass approximately 14,000 undeveloped contiguous acres in Brevard County.

According to the findings in the bill, "[w]hile chapter 190, F.S., provides an opportunity for community development services and facilities to be provided by the establishment of community development districts in a manner that furthers the public interest, given the vast nature of the lands covered by this act and the potentially long-term nature of its development, establishing multiple community development districts over these lands would result in an inefficient, duplicative, and needless proliferation of local special purpose government, contrary to the public interest and the Legislature's findings in chapter 190, Florida Statutes."

The district is not authorized to exercise any comprehensive planning, zoning, or development permitting power; the establishment of the district is not be considered a development order; and all applicable planning and permitting laws, rules, regulations, and policies of Brevard County control the development of the land to be serviced by the district.

² *Community Development Districts*, The Florida Senate, Committee on Comprehensive Planning, Interim Project Report 2004-121, Nov. 2003.

The jurisdiction of the district, in the exercise of its general and special powers, and in the carrying out of its special purposes, is both within the external boundaries of the legal description of this district and extraterritorially when limited to, and as authorized expressly elsewhere in, the charter of the district as created in this act or applicable general law.

Referendum Requirements

The substantive provisions of the bill take effect upon approval by a majority vote of the owners of land within the district who are not exempt from ad valorem taxes or non-ad valorem assessments and who are present in person or by proxy at a landowners' meeting to be held within 90 days after the effective date of this act. Such landowners' meeting must be noticed as required for the initial landowners' meeting and may be combined with such meeting. At the time of the initial referendum, there is expected to be one landowner within the district, the Viera Company.

The provisions of this bill that authorize the levy of ad valorem taxation and issuance of general obligation bonds take effect only upon express approval by a majority vote of those qualified electors of the Viera Stewardship District voting in a referendum election held at such time as all members of the board are qualified electors who are elected by qualified electors of the district.

Modification of District Boundaries and Charter

The bill specifies that the charter of the district, as created in this bill, may only be amended by special act of the Legislature. The bill provides that the Legislature may not consider an amendment of the district boundaries or the general or special powers of the district unless it is accompanied by a resolution or official statement as provided for in s. 189.404(2)(e)4., F.S.

The board may ask the Legislature through its local legislative delegation in and for Brevard County to amend this act to contract, to expand or to contract, or to expand the boundaries of the district by amendment of this section.

The district remains in existence until:

- The district is terminated and dissolved pursuant to amendment to this act by the Legislature.
- The district has become inactive pursuant to s. 189.4044, F.S.

Provided, however, if, within 5 years after the effective date of this act establishing the district, the primary landowner has not received a development permit, as defined in ch. 380, F.S., on some part or all of the area covered by the district, then the district will be automatically dissolved and a judge of the circuit court must cause a statement to that effect to be filed in the public records.

The inclusion of any or all territory of the district within a municipality does not change, alter, or affect the boundary, territory, existence, or jurisdiction of the district.

Election of the District Board

a. Election of Board by Landowners

The district is governed by a Board of Supervisors (Board) consisting of 5 members. Board members must be residents of the state and citizens of the United States. Initial Board members are elected by landowners of the district voting at an election held within 90 days following the effective date of this bill. The landowners present at the meeting, in person or by proxy, constitute a quorum. At any landowners' meeting, 50 percent of the district acreage is not required to constitute a quorum, and each governing board member elected by landowners is to be elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting. Each landowner is entitled to cast one vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. A fraction of an acre is treated as 1 acre, entitling the landowner to one vote with respect thereto.

With respect to the elections of initial board members, the two candidates receiving the highest number of votes must be elected for a term expiring November 18, 2008, and the three candidates receiving the next largest number of votes are elected for a term expiring November 7, 2006, with the 4-year term of office for each successful candidate commencing upon election. The members of the first Board elected by landowners serve their respective terms; however, the next election of Board members must be held on the first Tuesday after the first Monday in November 2006. Thereafter, elections by landowners for the district must be conducted every 2 years on the first Tuesday after the first Monday in November.

The Board may not exercise the ad valorem taxing power authorized by this bill until such time as all members of the Board are qualified electors who are elected by qualified electors of the district.

Lastly, the bill provides that it is not a conflict of interest under ch. 112, F.S., for a Board member, the district manager, or another employee of the district to be a stockholder, officer, or employee of a landowner.

b. Election of Board by Qualified Electors

Regardless of whether the district has proposed to levy ad valorem taxes or issue general obligation bonds, board members must begin being elected by qualified electors of the district as the district becomes populated with qualified electors. The transition must occur such that the composition of the board, after the first general election following a trigger as set forth below, must be as follows:

- (I) Five years following the creation of the district, one governing board member must be a person who was elected by the qualified electors and four governing board members must be persons who were elected by the landowners.
- (II) Ten years following the creation of the district, two governing board members must be persons who were elected by the qualified electors and three governing board members must be persons elected by the landowners.
- (III) When the district is populated by 60 percent of the projected total qualified electors, three governing board members must be persons who were elected by the qualified electors and two governing members must be persons who were elected by the landowners.
- (IV) Three years following the trigger in sub-sub-subparagraph (III), four governing board members must be persons who were elected by the qualified electors and one governing board member must be a person who was elected by the landowners.
- (V) Five years following the trigger in subparagraph (III), all five governing board members must be persons who were elected by the qualified electors.

The term "projected total qualified electors" means the product of:

(The total number of single-family and multi-family units approved within the district by a development order issued by Brevard County and in effect in the tenth year following creation of the district)

multiplied by

(The average number of persons residing within a household located within Brevard County based on the 2010 U.S. Census)

multiplied by

(The percentage of Brevard County's general population registered to vote as reported by the Brevard County Supervisor of Elections as of the general election occurring November 2014).

On or before June 1, 2016, the board must determine the number of projected qualified electors in the district as of the immediately preceding April 15. Additionally, on or before June 1, 2016, and each year thereafter until the trigger in subparagraph (III) is met, the board must determine the actual number of qualified electors in the district as of the immediately preceding April 15. The board must use and rely

upon the official records maintained by the supervisor of elections and property appraiser or tax collector in each county in making this determination. Such determination must be made at a properly noticed meeting of the board and become a part of the official minutes of the district.

Once the district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district must be held at the general election in November. The board must adopt a resolution if necessary to this requirement. The transition process described herein is intended to be in lieu of the process set forth in s.189.4051, F.S. If, during the term of office, a vacancy occurs, the remainder of the unexpired term must be filled as follows:

- If the vacancy arises with respect to a supervisor that was elected by landowners, the vacancy must be filled by a supervisor elected by the landowners; and
- If the vacancy arises with respect to a supervisor that was elected by the qualified electors of the district, the vacancy must be filled by a supervisor elected by the qualified electors of the district, in which case the district must be responsible for paying the expenses associated with any special election that is required to be conducted.

Elections of board members by qualified electors held pursuant to this subsection must be nonpartisan and must be conducted in the manner prescribed by law for holding general elections. Candidates seeking election to office by qualified electors must conduct their campaigns in accordance with the provisions of ch. 106, F.S., and file qualifying papers and qualify for individual seats in accordance with general law.

General Board Administration

Members of the board, regardless of how elected, are public officers, and, upon entering into office, must take and subscribe to the oath of office as prescribed by general law. Members of the board are subject to ethics and conflict of interest laws of the state that apply to all local public officers.

Any elected board member may be removed by the Governor for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by this act, and any vacancies that may occur in such office for such reasons must be filled by the Governor as soon as practicable.

Each supervisor is entitled to receive for his or her services an amount not to exceed \$200 per board meeting, not to exceed \$4,800 per year per supervisor, or an amount established by the electors at a referendum. In addition, each supervisor must receive travel and per diem expenses as set forth in s. 112.061, F.S.

All meetings of the board must be open to the public and governed by the provisions of ch. 286, F.S. The record book of the district and all other district records must at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to ch. 119, F.S.

District Budget

On an annual basis, the district manager must prepare a proposed budget for the ensuing fiscal year to be submitted to the Board for approval. The Board must consider the proposed budget item by item and may either approve the budget as proposed by the district manager or modify the same in part or in whole. The Board must indicate approval of the budget by resolution, which must provide for a hearing on the budget as approved. At the time and place designated in the public notice of the hearing, the Board must hear all objections to the budget as proposed and may make such changes as the Board deems necessary. At the conclusion of the budget hearing, the Board must, by resolution, adopt the budget as finally approved by the Board.

At least 60 days prior to adoption, the Board must submit to the Brevard County Board of County Commissioners, for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year, and the Board of County Commissioners may submit written comments to the

Board solely for the assistance and information of the Board of the district in adopting its annual district budget.

The Board must annually submit its district public facilities report or the most recent development of regional impact report to the Brevard County Board of County Commissioners. The Board of County Commissioners must use and rely on the district public facilities report in the preparation or revision of its comprehensive plan.

The district must take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information must be made available to all existing residents and all prospective residents of the district. The district must furnish each developer of a residential development within the district with sufficient copies of that information to provide each prospective initial purchaser of property in that development with a copy. Any developer of a residential property within the district, when required by law to provide a public offering statement, must include a copy of such information relating to the public financing and maintenance of improvements in the public offering statement. The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation must ensure that disclosures made by developers pursuant to ch. 498, F.S., meet the requirements of s. 190.009(1), F.S.

General Powers

This bill grants the district general powers consistent with those granted to community development districts under s. 190.011, F.S. The general powers of the district must be construed liberally in order to carry out effectively the specialized purpose of this bill.

- To sue and be sued in the name of the district; to acquire, by purchase, gift, devise, or otherwise, and to own and dispose of, real and personal property, or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
- To apply for coverage of its employees under the Florida Retirement System in the same manner as if such employees were state employees, subject to necessary action by the district to pay employer contributions into the Florida Retirement System Trust Fund.
- To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts are subject to public bidding or competitive negotiation requirements as set forth in general law applicable to independent special districts.
- To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.
- To adopt and enforce rules and orders pursuant to the provisions of ch. 120, F.S., prescribing powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the district. The board may also adopt and enforce administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business.
- To maintain an office at such place or places as the board of supervisors designates in Brevard County, and within the district when facilities are available.
- To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, or reservations for the purposes authorized by this act.
- To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities

or property of any nature for the use of the district to carry out the purposes authorized by this act.

- To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such taxes and assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.
- To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of district activities and services and the maintenance of district facilities and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.
- To exercise within the district, or beyond the district with prior approval by vote of a resolution of the governing body of Brevard County if the taking will occur in an unincorporated area in that county, the right and power of eminent domain, pursuant to the provisions of chs. 73 and 74, F.S., over any property within the state, except municipal, county, state, and federal property, for the uses and purpose of the district relating solely to water, sewer, district roads, and water management and control, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.
- To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.
- To assess and to impose upon lands in the district ad valorem taxes as provided by this act.
- If and when authorized by general law to determine, order, levy, impose, collect, and enforce maintenance taxes.
- To determine, order, levy, impose, collect, and enforce assessments pursuant to this act and ch. 170, F.S., as amended from time to time, pursuant to authority granted in s. 197.3631, F.S., or pursuant to other provisions of general law now or hereinafter enacted which provide or authorize a supplemental means to order, levy, impose, or collect special assessments. Such special assessments, in the discretion of the district, may be collected and enforced pursuant to the provisions of ss. 197.3632 and 197.3635, F.S., and chs. 170 and 173, F.S., or as provided by this act, or by other means authorized by general law now or hereinafter enacted.
- To exercise such special powers and other express powers as may be authorized and granted by this act in the charter of the district, including powers as provided in any interlocal agreement entered into pursuant to ch. 163, F.S., or which must be required or permitted to be undertaken by the district pursuant to any development order or development of regional impact, including any interlocal service agreement with Brevard County for proportionate, fair-share, or pipelining capital construction funding for any certain capital facilities or systems required of the developer pursuant to any applicable development order or agreement.
- To exercise all of the powers necessary, convenient, incidental, or proper in connection with any other powers or duties or the special purpose of the district authorized by this act.

Special Powers

The district has, and the board may exercise, the following special powers to implement its lawful and special purpose and to provide, pursuant to that purpose, systems, facilities, services, improvements, projects, works, and infrastructure, each of which constitutes a lawful public purpose when exercised pursuant to this charter, subject to, and not inconsistent with, the regulatory jurisdiction and permitting authority of all other applicable governmental bodies, agencies, and any special districts having authority with respect to any area included therein, and to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, finance, fund, and maintain improvements, systems, facilities, services, works, projects, and infrastructure. Any or all of the following special powers are granted by this act in order to implement the special purpose of the district:

- To provide water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges and to construct, acquire and operate any dam, work, appurtenant work, impoundment, or reservoir and any connecting, intercepting or outlet mains and pipes in, along or under any street, alley, highway or other public place or ways; including, but not limited to, acquiring, operating, maintaining, repairing and improving water

management and control facilities necessary for the collection, storage control, development, utilization and distribution of nonpotable waters for irrigation purposes.

- To provide water systems, sewer systems, and wastewater management, reclamation and reuse, or any combination thereof, and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system. The district may not purchase or sell a water, sewer, or wastewater reuse utility that provides service to the public for compensation, or enter into a wastewater facility privatization contract for a wastewater facility, until the governing body of the district has held a public hearing on the purchase, sale, or wastewater facility privatization contract and made a determination that the purchase, sale, or wastewater facility privatization contract is in the public interest. In determining if the purchase, sale, or wastewater facility privatization contract is in the public interest, the district must consider, at a minimum, criteria specified by the bill.
- To provide bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of way, highway, grade, fill, or cut.
- To provide public roads and related improvements equal to or exceeding the specifications of Brevard County, including, but not limited to transportation improvements necessary to comply with conditions of development approval applicable to lands within the district. This special power includes, but is not limited to, roads, parkways, interchanges, bridges, landscaping, hardscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, regulatory or informational signage, road striping, underground conduit, underground cable or fiber or wire installed pursuant to an agreement with or tariff of a retail provider of services, and all other related improvements and the elements of a functioning modern road system in general or as related to the conditions of development approval for the lands within the district, together with transportation improvements and facilities that are freestanding or that may be related to any innovative strategic intermodal system of transportation pursuant to applicable federal, state, and local law and ordinance.
- To provide buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, and related signage.
- To provide investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district and who caused or contributed to the contamination.
- To provide conservation areas, mitigation areas, wilderness areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property, and to evaluate, acquire, enhance, manage, monitor and maintain conservation, mitigation, and preservation lands and wildlife habitat.
- Using its general and special powers as set forth in this act, to provide any other project within or without the boundaries of the district when the project is the subject of an agreement between the district and the Board of County Commissioners of Brevard County or with any other applicable public or private entity, or is approved or required by a development order pursuant to sections 380.06 or s. s 380.061, F.S., and is not inconsistent with the effective local comprehensive plan.
- To provide parks and facilities for indoor and outdoor recreational, cultural, and educational uses, provided, however, that in no event may the district finance or own a golf course.
- To provide fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.
- To provide school buildings and related structures, which may be leased, sold, or donated to the school district, for use in the educational system when authorized by the district school board.
- To provide security, including, but not limited to, guardhouses, fences, and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; however, the district may not exercise any powers of a law enforcement agency but may contract with the appropriate local general-purpose government agencies for an increased

level of such services within the district boundaries. Notwithstanding any provision of general law, the district may operate guardhouses for the limited purpose of providing security for the residents of the district and which serve a predominate public, as opposed to private, purpose. Such guardhouses must be operated by the district or any other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in ch. 120, F.S.

- To provide control and elimination of mosquitoes and other arthropods of public health importance.
- To provide waste collection and disposal.
- To enter into impact fee credit agreements.
- To provide buildings and structures for district offices, maintenance facilities, meeting facilities, community centers, or any other project authorized or granted by this act.
- To establish and create, at noticed meetings, such governmental departments of the Board of Supervisors of the district, as well as committees, task forces, boards, or commissions, or other agencies under the supervision and control of the district, as from time to time the board may deem necessary or desirable in the performance of the acts or other things necessary to exercise the board's general or special powers to implement an innovative project to carry out the special purpose of the district as provided in this act and to delegate the exercise of its powers to such departments, boards, task forces, committees or other agencies and such administrative duties and other powers as the board may deem necessary or desirable but only if there is a set of expressed limitations for accountability, notice, and periodic written reporting to the board that must retain the powers of the board.

The enumeration of special powers herein may not be deemed exclusive or restrictive but must be deemed to incorporate powers express or implied necessary or incident to carrying out such enumerated special powers, including also the general powers provided by this special act charter to the district to implement its single purpose.

The district may exercise its powers to provide facilities for potable water, sewer, fire protection, mosquito control, waste collection and waste disposal services only if such facilities are to be dedicated to and operated by the county or a municipality already providing the service or if such county or municipality declines or is unable to provide the service at the time the service becomes necessary. The bill specifically provides that nothing:

- May prevent the district from dedicating transportation or other facilities to the county or a municipality;
- May be construed to authorize the district to provide or approve franchises for emergency medical ambulance services, which authority is reserved to Brevard County under ch. 71-556 F.S.;
- Is intended to authorize the imposition of impact fees based upon alleged police powers or regulatory powers of the district;
- Is intended to limit the power of the county or a city to provide such facilities and to require landowners to utilize such facilities as a condition to development of lands within the district; or
- Is intended to prohibit the district from providing additional services beyond those offered by the county or a municipality.

District Borrowing and Issuance of Bonds

The district is authorized to obtain loans in any amount and on such terms as the board approves at an interest rate not to exceed the maximum rate allowed by general law. The district is also authorized to issue bond anticipation notes, interim certificates, certificates of indebtedness, assessment bonds, revenue bonds, and refunding bonds.

The district may also issue general obligation bonds to finance or refinance capital projects or to refund outstanding bonds in an aggregate principal amount of bonds outstanding at any one time not in excess of 35 percent of the assessed value of the taxable property within the district as shown on the pertinent tax records at the time of the authorization of the general obligation bonds for which the full faith and credit of the district is pledged. Except for refunding bonds, no general obligation bonds may be issued unless the bonds are issued to finance or refinance a capital project and the issuance has been approved at an election held in accordance with the requirements for such election as prescribed by the State Constitution. Such elections must be called to be held in the district by the Board of County Commissioners of Brevard County upon the request of the board of the district. The expenses of calling and holding an election are at the expense of the district, and the district must reimburse the county for any expenses incurred in calling or holding such election.

The district may pledge its full faith and credit for the payment of the principal and interest on such general obligation bonds and for any reserve funds provided therefor and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all taxable property in the district, to the extent necessary for the payment thereof, without limitation as to rate or amount.

The power of the district to issue bonds may be determined, and any of the bonds of the district maturing over a period of more than 5 years must be validated and confirmed, by court decree, under the provisions of ch. 75, F.S., and laws supplementary thereto.

The state pledges to the holders of any bonds issued under this bill that it will not limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy and collect the taxes, assessments, rentals, rates, fees, and other charges provided for herein and to fulfill the terms of any agreement made with the holders of such bonds or other obligations and that it will not in any way impair the rights or remedies of such holders.

A default on the bonds or obligations of a district does not constitute a debt or obligation of the state or any general-purpose local government or the state.

To the extent allowed by general law, all bonds issued by the district and interest paid thereon and all fees, charges, and other revenues derived by the district from the projects provided by this act are exempt from all taxes by the state or by any political subdivision, agency, or instrumentality thereof; however, any interest, income, or profits on debt obligations issued hereunder are not exempt from the tax imposed by ch. 220, F.S.

Taxes, Special Assessments, Fees, and Charges

Ad Valorem Taxation. When the entire Board is elected by qualified electors of the district, the Board is authorized to levy and assess an ad valorem tax on all the taxable property in the district to construct, operate, and maintain assessable improvements; to pay the principal of, and interest on, any general obligation bonds of the district; and to provide for any sinking or other funds established in connection with any such bonds. An ad valorem tax levied by the Board for operating purposes, exclusive of debt service on bonds, may not exceed 3 mills. The ad valorem tax is in addition to county and all other ad valorem taxes provided for by law. Ad valorem taxes must be assessed, levied, and collected in the same manner and at the same time as county taxes. The levy of ad valorem taxes must be approved by referendum as required by s. 9 of Art. VII of the State Constitution.

Benefit Special Assessments. The Board must determine, order, and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance assessable

improvements. These assessments may be due and collected during each year that county taxes are due and collected, in which case such annual installment and levy must be evidenced to and certified to the property appraiser by the board not later than August 31 of each year. Such assessment must be entered by the property appraiser on the county tax rolls and must be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof must be paid to the district. However, the district may, in its discretion, use the method prescribed in either s. 197.3632, F.S., or ch. 173, F.S., as each may be amended from time to time, for collecting and enforcing these assessments. Each annual installment of benefit special assessments are a lien on the property against which assessed until paid and are enforceable in like manner as county taxes. The amount of the assessment for the exercise of the district's powers must be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land. The board may, if it determines it is in the best interests of the district, set forth in the proceedings initially levying such benefit special assessments or in subsequent proceedings a formula for the determination of an amount, which when paid by a taxpayer with respect to any tax parcel, constitutes a prepayment all future annual installments of benefit special assessments. Payment of that amount relieves and discharges the lien of such benefit special assessments and any subsequent annual installment on a taxable parcel. The board may provide further that upon delinquency in the payment of any annual installment of benefit special assessments, the prepayment amount of all future annual installments of benefit special assessments as determined in the preceding sentence are immediately due and payable together with such delinquent annual installment.

Non-ad valorem maintenance taxes. If and when authorized by general law, to maintain and to preserve the physical facilities and services constituting the works, improvements, or infrastructure provided by the district pursuant to this act, to repair and restore any one or more of them, when needed, and to defray the current expenses of the district, including any sum which may be required to pay state and county ad valorem taxes on any taxable lands which may have been purchased and which are held by the district under the provisions of this act, the Board of Supervisors may, upon the completion of said systems, facilities, services, works, improvements, or infrastructure, in whole or in part, as may be certified to the board by the engineer of the board, levy annually a non-ad valorem and nonmillage tax upon each tract or parcel of land within the district, to be known as a "maintenance tax." This non-ad valorem maintenance tax must be apportioned upon the basis of the net assessments of benefits assessed as accruing from the original construction and must be evidenced to and certified by the Board of Supervisors of the district not later than June 1 of each year to the property appraiser of Brevard County and must be extended by the property appraiser on the tax roll of the property appraiser, as certified by the property appraiser to the tax collector, and collected by the tax collector on the merged collection roll of the tax collector in the same manner and at the same time as county ad valorem taxes, and the proceeds must be paid to the district. This non-ad valorem maintenance tax is a lien until paid on the property against which assessed and enforceable in like manner and of the same dignity as county ad valorem taxes.

Maintenance special assessments. To maintain and preserve the facilities and projects of the district, the board may levy a maintenance special assessment. This assessment may be evidenced to and certified to the property appraiser by the Board of Supervisors not later than August 31 of each year and must be entered by the property appraiser on the county tax rolls and must be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds must be paid to the district. However, this subsection does not prohibit the district in its discretion from using the method prescribed in either ss. 197.363, 197.3631, or 197.3632, F.S., for collecting and enforcing these assessments. These maintenance special assessments are a lien on the property against which assessed until paid and are enforceable in like manner as county taxes. The amount of the maintenance special assessment for the exercise of the district's powers under this section must be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

Special Assessments. As an alternative method to the levy and imposition of special assessments pursuant to ch. 170, F.S., pursuant to the authority of s. 197.3631, F.S., or pursuant to other provisions of general law, now or hereafter enacted, which provide a supplemental means or authority to impose, levy, and collect special assessments as otherwise authorized under this act, the board may levy and impose special assessments to finance the exercise of any of its powers permitted under this act using specified uniform procedures.

At a noticed meeting, the board of supervisors of the district may consider and review an engineer's report on the costs of the systems, facilities, and services to be provided, a preliminary assessment methodology, and a preliminary roll based on acreage or platted lands, depending upon whether platting has occurred.

The assessment methodology must address and discuss and the board must consider whether the systems, facilities, and services being contemplated will result in special benefits peculiar to the property, different in kind and degree than general benefits, as a logical connection between the systems, facilities, and services themselves and the property, and whether the duty to pay the assessments by the property owners is apportioned in a manner that is fair and equitable and not in excess of the special benefit received. It must be fair and equitable to designate a fixed proportion of the annual debt service, together with interest thereon, on the aggregate principal amount of bonds issued to finance such systems, facilities, and services which give rise to unique, special, and peculiar benefits to property of the same or similar characteristics under the assessment methodology so long as such fixed proportion does not exceed the unique, special, and peculiar benefits enjoyed by such property from such systems, facilities, and services.

The engineer's cost report must identify the nature the proposed systems, facilities, and services, their location, a cost breakdown plus a total estimated cost, including cost of construction or reconstruction, labor, and materials, lands, property, rights, easements, franchises, or systems, facilities, and services to be acquired, cost of plans and specifications, surveys of estimates of costs and revenues, costs of engineering, legal, and other professional consultation services, and other expenses or costs necessary or incident to determining the feasibility or practicability of such construction, reconstruction, or acquisition, administrative expenses, relationship to the authority and power of the district in its charter, and such other expenses or costs as may be necessary or incident to the financing to be authorized by the Board of Supervisors.

The preliminary assessment roll to be prepared will be in accordance with the method of assessment provided for in the assessment methodology and as may be adopted by the Board of Supervisors; the assessment roll must be completed as promptly as possible and must show the acreage, lots, lands, or plats assessed and the amount of the fairly and reasonably apportioned assessment based on special and peculiar benefit to the property, lot, parcel, or acreage of land; and, if the assessment against each such lot, parcel, acreage, or portion of land is to be paid in installments, the number of annual installments in which the assessment is divided must be entered into and shown upon the assessment roll.

The Board of Supervisors of the district may determine and declare by an initial assessment resolution to levy and assess the assessments with respect to assessable improvements stating the nature of the systems, facilities, and services, improvements, projects, or infrastructure constituting such assessable improvements, the information in the engineer's cost report, the information in the assessment methodology as determined by the board at the noticed meeting and referencing and incorporating as part of the resolution the engineer's cost report, the preliminary assessment methodology, and the preliminary assessment roll as referenced exhibits to the resolution by reference. If the board determines to declare and levy the special assessments by the initial assessment resolution, the board must also adopt and declare a notice resolution which must provide and cause the initial assessment resolution to be published once a week for a period of 2 weeks in newspapers of general circulation published in Brevard County and said board must by the same resolution fix a time and place at which the owner or owners of the property to be assessed or any other persons interested therein may appear

before said board and be heard as to the propriety and advisability of making such improvements, as to the costs thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved. Thirty days' notice in writing of such time and place must be given to such property owners. The notice must include the amount of the assessment and must be served by mailing a copy to each assessed property owner at his or her last known address, the names and addresses of such property owners to be obtained from the record of the property appraiser of the county political subdivision in which the land is located or from such other sources as the district manager or engineer deems reliable, and proof of such mailing must be made by the affidavit of the manager of the district or by the engineer, said proof to be filed with the district manager, provided that failure to mail said notice or notices must not invalidate any of the proceedings hereunder. It is provided further that the last publication must be at least 1 week prior to the date of the hearing on the final assessment resolution. Said notice must describe the general areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece, parcel, lot, or acre of property may be ascertained at the office of the manager of the district. Such service by publication must be verified by the affidavit of the publisher and filed with the manager of the district. Moreover, the initial assessment resolution with its attached, referenced, and incorporated engineer's cost report, preliminary assessment methodology, and preliminary assessment roll, along with the notice resolution, must be available for public inspection at the office of the manager and the office of the engineer or any other office designated by the Board of Supervisors in the notice resolution. Notwithstanding the foregoing, the landowners of all of the property which is proposed to be assessed may give the district written notice of waiver of any notice and publication provided for in this subparagraph and such notice and publication is not required, provided, however, that any meeting of the Board of Supervisors to consider such resolution must be a publicly noticed meeting.

At the time and place named in the noticed resolution as provided for in subparagraph 2., the board of supervisors of the district must meet and hear testimony from affected property owners as to the propriety and advisability of making the systems, facilities, services, projects, works, improvements, or infrastructure and funding them with assessments referenced in the initial assessment resolution on the property. Following the testimony and questions from the members of the board or any professional advisors to the district of the preparers of the engineer's cost report, the assessment methodology, and the assessment roll, the board of supervisors must make a final decision on whether to levy and assess the particular assessments. Thereafter, the board of supervisors must meet as an equalizing board to hear and to consider any and all complaints as to the particular assessments and must adjust and equalize the assessments on the basis of justice and right.

When so equalized and approved by resolution or ordinance by the board of supervisors, to be called the final assessment resolution, a final assessment roll must be filed with the clerk of the board and such assessment must stand confirmed and remain legal, valid, and binding first liens on the property against which such assessments are made until paid, equal in dignity to the first liens of ad valorem taxation of county and municipal governments and school boards. However, upon completion of the systems, facilities, service, project, improvement, works, or infrastructure, the district must credit to each of the assessments the difference in the assessment as originally made, approved, levied, assessed, and confirmed and the proportionate part of the actual cost of the improvement to be paid by the particular special assessments as finally determined upon the completion of the improvement; but in no event may the final assessment exceed the amount of the special and peculiar benefits as apportioned fairly and reasonably to the property from the system, facility, or service being provided as originally assessed. Promptly after such confirmation, the assessment must be recorded by the clerk of the district in the minutes of the proceedings of the district, and the record of the lien in this set of minutes constitutes prima facie evidence of its validity. The board of supervisors, in its sole discretion, may, by resolution grant a discount equal to all or a part of the payee's proportionate share of the cost of the project consisting of bond financing cost, such as capitalized interest, funded reserves, and bond discounts included in the estimated cost of the project, upon payment in full of any assessments during such period prior to the time such financing costs are incurred as may be specified by the board of supervisors in such resolution.

District assessments may be made payable in installments over no more than 30 years from the date of the payment of the first installment thereof and may bear interest at fixed or variable rates.

Notwithstanding any provision of this act or ch. 170, F.S., that portion of s. 170.09, F.S., that provides that assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority is not applicable to any district assessments, whether imposed, levied, and collected pursuant to the provisions of this act or other provisions of general law, including, but not limited to ch. 170, F.S.

In addition, the district is authorized expressly in the exercise of its rulemaking power to adopt a rule or rules which provides or provide for notice, levy, imposition, equalization, and collection of assessments.

Fees, Rentals, and Charges. The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, hereinafter sometimes referred to as "revenues," and to revise the same from time to time, for the systems, facilities, and services furnished by the district, within the limits of the district, including, but not limited to, recreational facilities, water management and control facilities, and water and sewer systems; to recover the costs of making connection with any district service, facility, or system; and to provide for reasonable penalties against any user or property for an such rates, fees, rentals, or other charges that are delinquent.

Rates, fees, rentals, or other charges for any of the facilities or services of the district may be fixed until after a public hearing at which all the users of the proposed facility or services or owners, tenants, or occupants served or to be served thereby and all other interested persons must have an opportunity to be heard concerning the proposed rates, fees, rentals, or other charges. Rates, fees, rentals, and other charges must be adopted under the administrative rulemaking authority of the district, but must not apply to district leases. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, rentals, and other charges must have been published in a newspaper of general circulation in Brevard County at least once and at least 10 days prior to such public hearing. The rulemaking hearing may be adjourned from time to time. After such hearing, such schedule or schedules, either as initially proposed or as modified or amended, may be finally adopted. A copy of the schedule or schedules of such rates, fees, rentals, or charges as finally adopted must be kept on file in an office designated by the board and must be open at all reasonable times to public inspection. The rates, fees, rentals, or charges so fixed for any class of users or property served must be extended to cover any additional users or properties thereafter served which must fall in the same class, without the necessity of any notice or hearing.

Such rates, fees, rentals, and charges must be just and equitable and uniform for users of the same class, and when appropriate may be based or computed either upon the amount of service furnished, upon the average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

The rates, fees, rentals, or other charges prescribed must be such as will produce revenues, together with any other assessments, taxes, revenues, or funds available or pledged for such purpose, at least sufficient to provide for the items hereinafter listed, but not necessarily in the order stated:

1. To provide for all expenses of operation and maintenance of such facility or service.
2. To pay when due all bonds and interest thereon for the payment of which such revenues are, or must have been, pledged or encumbered, including reserves for such purpose.
3. To provide for any other funds which may be required under the resolution or resolutions authorizing the issuance of bonds pursuant to this act.

The board has the power to enter into contracts for the use of the projects of the district and with respect to the services, systems, and facilities furnished or to be furnished by the district.

In the event that any rates, fees, rentals, charges, or delinquent penalties are not paid as and when due and are in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the district in a civil action.

In the event the fees, rentals, or other charges for water and sewer services, or either of them, are not paid when due, the board has the power, under such reasonable rules and regulations as the board may adopt, to discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance and the restoration of such water and sewer services or both, are fully paid; and, for such purposes, the board may enter on any lands, waters, or premises of any person, firm, corporation, or body, public or private, within the district limits. Such delinquent fees, rentals, or other charges together with interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services and facilities and reasonable attorney's fees and other expenses may be recovered by the district, which may also enforce payment of such delinquent fees, rentals, or other charges by any other lawful method of enforcement.

Enforcement of taxes

All taxes provided for in this act are delinquent and bear penalties on the amount of such taxes in the same manner as county taxes. The collection and enforcement of all taxes levied by the district must be at the same time and in like manner as county taxes, and the provisions of the laws of Florida relating to the sale of lands for unpaid and delinquent county taxes; the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes; the redemption thereof; the issuance to individuals of tax deeds based thereon; and all other procedures in connection therewith are applicable to the district to the same extent as if such statutory provisions were expressly set forth herein. All taxes are subject to the same discounts as county taxes.

Any lien in favor of the district arising under this act may be foreclosed by the district by foreclosure proceedings in the name of the district in a court of competent jurisdiction as provided by general law in like manner as is provided in ch. 173, F.S., and the provisions of that chapter are applicable to such proceedings with the same force and effect as if those provisions were expressly set forth in this act. Any act required or authorized to be done by or on behalf of a municipality in foreclosure proceedings under ch. 173, F.S., may be performed by such officer or agent of the district as the board of supervisors may designate. Such foreclosure proceedings may be brought at any time after the expiration of 1 year from the date any tax, or installment thereof, becomes delinquent; however, no lien may be foreclosed against any political subdivision or agency of the state. Other legal remedies remain available.

Competitive Bidding Requirements

No contract may be let by the board for any goods, supplies, or materials to be purchased when the amount thereof to be paid by the district exceeds the amount provided in s. 287.017, F.S., for category four, unless notice of bids are advertised once in a newspaper in general circulation in Brevard County. The board seeking to construct or improve a public building, structure, or other public works must comply with the bidding procedures of s. 255.20, F.S., and other applicable general law. In each case, the bid of the lowest responsive and responsible bidder must be accepted unless all bids are rejected because the bids are too high or the board determines it is in the best interests of the district to reject all bids. The board may require the bidders to furnish bond with a responsible surety to be approved by the board. Nothing in this section prevents the board from undertaking and performing the construction, operation, and maintenance of any project or facility authorized by this act by the employment of labor, material, and machinery.

The provisions of the Consultants' Competitive Negotiation Act, s. 287.055, F.S., apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services let by the board.

Contracts for maintenance services for any district facility or project are subject to competitive bidding requirements when the amount thereof to be paid by the district exceeds the amount provided in s.

287.017, F.S., for category four. The district must adopt rules, policies, or procedures establishing competitive bidding procedures for maintenance services. Contracts for other services are not subject to competitive bidding unless the district adopts a rule, policy, or procedure applying competitive bidding procedures to said contracts. Nothing herein precludes the use of requests for proposal instead of invitations to bid as determined by the district to be in its best interest.

District Property Declared Public Property

Any system, facility, service, works, improvement, project, or other infrastructure owned by the district, or funded by federal tax exempt bonding issued by the district, is public; and the district by rule may regulate and may impose reasonable charges or fees for the use thereof but not to the extent that such regulation or imposition of such charges or fees constitutes denial of reasonable access.

C. SECTION DIRECTORY:

- Section 1. Provides short title of the Act.
- Section 2. Provides legislative intent and definitions.
- Section 3. Provides minimum charter requirements, creates the District, and provides for exclusive charter.
- Section 4. Sets forth District boundaries.
- Section 5. Provides for the District governing board and its administration.
- Section 6. Provides for the general duties of the governing board; general and special powers of the District; bonds; ad valorem taxation; special assessments; non-ad valorem maintenance taxes; tax liens; fees, rentals, and charges; and other administrative provisions.
- Section 7. Provides for severability.
- Section 8. Provides that the bill takes effect upon becoming a law, except that the provisions regarding the levy of ad valorem taxes are not effective until approved at a referendum.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? January 20, 2006

WHERE? Florida Today, Brevard County, Florida

B. REFERENDUM(S) REQUIRED? Yes ☒ No ☐

IF YES, WHEN? The substantive provisions of the bill take effect upon approval by a majority vote of the owners of land within the district who are not exempt from ad valorem taxes or non-ad valorem assessments and who are present in person or by proxy at a landowners' meeting to be held within 90 days after the effective date of this act. Such landowners' meeting must be noticed and may be combined with the initial landowners' meeting. However, the provisions of the bill that authorize the levy of ad valorem taxation and issuance of general obligation bonds take effect only upon express approval by a majority vote of those qualified electors of the Viera Stewardship District voting in a referendum election held at such time as all members of the board are qualified electors who are elected by qualified electors of the district.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

One-Acre, One-Vote Election Mechanism

It should be noted that the broad grants of power to the District *may* impact the permissibility of conducting elections on a "one-vote-per-acre" basis. In *State v. Frontier Acres Community Development District Pasco County, Florida*, 472 So.2d 455 (Fla.1985), the Florida Supreme Court upheld one-vote-per-acre voting for community development districts created under ch. 190, F.S., based on the decisions of the United States Supreme Court,¹³ the narrow purpose of such districts, and the disproportionate effect district operations have on landowners:

The powers exercised by these districts must comply with all applicable policies and regulations of statutes and ordinances enacted by popularly elected state and local governments. Moreover, the limited grant of these powers does not constitute sufficient general governmental power so as to invoke the demands of Reynolds. Rather, these districts' powers implement the single, narrow legislative purpose of ensuring that future growth in this State will be complemented by an adequate community infrastructure provided in a manner compatible with all state and local regulations.

Following this case, the 4th District Court of Appeal reached a similar conclusion with respect to water control districts which are governed by ch. 298, F.S., in *Stelzel v. South Indian River Water Control Dist.*, 486 So.2d 65 (Fla. 4th DCA 1986). In reaching its decision, the court evaluated the functions exercised by the water control district and found that the evidence established that the District does not exercise general governmental functions:

While the record here contains evidence which tends to support appellants' claims that the District exercises municipal functions, it also demonstrates with equal clarity that each of the functions performed by the District directly relate either to its water control function or to its limited road maintenance authority.

These decisions, and the decisions of the United States Supreme Court, suggest a nexus between the nature and number of powers granted to a special district and whether voting may be conducted on a one-vote-per-acre basis. Thus, the more and varied powers a special district has, it seems more likely that one-vote-per acre voting would be unconstitutional, particularly if the district meets any of the following criteria upon which the courts have based their decisions:

- The district does not have to comply with all applicable policies and regulations of statutes and ordinances enacted by popularly elected state and local governments;
- The district has a grant of power that is not limited and which constitutes "sufficient general governmental power;"
- The district does not have a single, narrow legislative purpose; or
- The functions performed by the district do not directly relate to its single, narrow purpose.

B. RULE-MAKING AUTHORITY:

The bill authorizes the district to adopt and enforce rules and orders pursuant to ch. 120, F.S., the Florida Administrative Procedure Act, prescribing the duties, powers, and functions of the officers of the district, the conduct of the business of the district; the maintenance of records; and, the form of certificates evidencing tax liens and all other documents and records of the district.

The bill authorizes the district to provide security, including guardhouses, fences, and gates, electronic intrusion-detection systems, and patrol cars, which are authorized by proper governmental agencies; however, the district may not exercise any powers of a law enforcement agency. Notwithstanding any provision of general law, the district may operate guardhouses for the limited purpose of providing

security for the residents of the district and which serve a predominate public, as opposed to private, purpose. Such guardhouses must be operated by the district or any other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in ch. 120, F.S.

The district board may adopt and enforce appropriate rules following the procedures of ch. 120, F.S., in connection with the provision of one or more services through its systems and facilities. The district is authorized expressly in the exercise of its rulemaking power to adopt a rule or rules which provides or provide for notice, levy, imposition, equalization, and collection of special assessments.

The district must adopt rules, policies, or procedures establishing competitive bidding procedures for maintenance services. Contracts for other services are not subject to competitive bidding unless the district adopts a rule, policy, or procedure applying competitive bidding procedures to said contracts.

Lastly, the bill requires rates, fees, rentals, and other charges imposed by the district to be adopted under the administrative rulemaking authority of the district. In the event the fees, rentals, or other charges for water and sewer services, or either of them, are not paid when due, the board is authorized, under such reasonable rules and regulations as the board may adopt, to discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance and the restoration of such water and sewer services or both, are fully paid.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Possible Exemptions from General Law

The bill includes the following provisions, all of which appear to be exemptions from general law:

- The bill establishes a process to transition the governing board from one elected by landowners only to a board elected by qualified electors of the district. The bill specifically provides that “[t]he transition process described herein is intended to be in lieu of the process set forth in section 189.4051, Florida Statutes.” [Emphasis added.]
- Notwithstanding any provision of this bill or ch. 170, F.S., that portion of s. 170.09, F.S., that provides that assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority is not applicable to any District assessments, whether imposed, levied, and collected pursuant to the provisions of this bill or other provisions of Florida law, including, but not limited to ch. 170, F.S.
- The bill authorizes the District to provide security, including guardhouses, fences, and gates, electronic intrusion-detection systems, and patrol cars, which authorized by proper governmental agencies; however, the District may not exercise any powers of a law enforcement agency. Notwithstanding any provision of general law, the District may operate guardhouses for the limited purpose of providing security for the residents of the District and which serve a predominate public, as opposed to private, purpose. Such guardhouses must be operated by the District or any other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in ch. 120, F.S.
- Notwithstanding any provisions of any other law to the contrary, all bonds issued under the provisions of this act shall constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and shall be and constitute security which may be deposited by

banks or trust companies as security for deposits of state, county, municipal, or other public funds or by insurance companies as required or voluntary statutory deposits.

Broad Powers of the District

The “specialized functions and related prescribed powers,” which are a defining characteristic for a special district, are extremely broad for this particular District, including the power to provide for and fund: water management and control, water supply, sewer, and wastewater management, reclamation, and reuse; privatization contracting; bridges or culverts; roadways and roads, parkways, hardscaping, landscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, road striping; parking facilities; buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, related signage; costs associated with cleanup of actual or perceived environmental contamination within the District; observation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property; parks and facilities for indoor and outdoor recreational, cultural, and educational uses; fire prevention and control; school buildings and related structures; security; mosquitoes and other public health nuisance arthropods control; waste, waste collection, and disposal; impact fee credit agreements; and provide buildings and structures for District offices, maintenance facilities, meeting facilities, town centers, or any other project authorized by this bill.

However, such broad powers, however, have been upheld by the courts as demonstrated by the leading case on this issue, *State v. Reedy Creek Imp. Dist.*, 216 So.2d 202 (Fla. 1968):

So long as specific constitutional provisions are not offended, the Legislature in the exercise of its plenary authority may create a special improvement district encompassing more than one county and possessing multi-purpose powers essential to the realization of a valid public purpose. In the present case, the numerous and diverse powers granted to the District by the enabling act appear to be logically related and essential to the realization of the valid public purposes by the District. In reaching this conclusion, we reject the State’s argument that the powers granted the District are commensurate in scope with those characteristic of a local municipal government rendering the enabling act a mere subterfuge to avoid the creation of a municipality.

Modification of District Boundaries/Binding Future Legislatures

The bill specifies that the charter of the district, as created in this bill, may only be amended by special act of the Legislature. The bill provides that the Legislature may not consider an amendment of the district boundaries or the special powers of the district unless it is accompanied by a resolution or official statement as provided for in s. 189.404(2)(e)4., F.S. Although this bill appears to prohibit future legislatures from amending district boundaries unless a resolution from the affected county is secured, this provision cannot “bind” future legislatures or limit the legislature’s ability to amend the district’s boundaries. Therefore, although this language may evidence intent of the parties, a future legislature that wishes to amend the boundaries of the district may do so without a resolution from an affected county.

Supremacy Clause

Section 3(4) of this bill includes a supremacy clause as follows:

This special-purpose district is created as a public body corporate and politic, and local government authority and power is limited by its charter, this act, and subject to the provisions of other general laws, including chapter 189, Florida Statutes, except that an inconsistent provision in this act shall control and the district has jurisdiction to perform such acts and exercise such authorities, functions, and powers as shall be necessary, convenient, incidental, proper, or reasonable for the implementation of its limited, single, and specialized purpose regarding the sound planning, provision, acquisition, development, operation, maintenance, and related financing of those public systems, facilities, services, improvements, projects, and infrastructure works as authorized herein, including those necessary and incidental thereto.

Supremacy clauses are provisions that attempt to resolve conflicts between legislative enactments by assigning supremacy or prominence to one provision or set of provisions over another. If a bill includes a general supremacy clause, such as the one contained in this bill, the judiciary determines superiority between general and special law provisions, rather than the Legislature. In addition, general supremacy clauses do not inform interested persons or members of the Legislature of the specific laws containing potential conflicts. Unless the specific laws in conflict are identified, it is suggested that the "supremacy" clause be removed from the bill.

Extraterritorial Services and Projects

Section 3(4) of the bill provides as follows:

The jurisdiction of this district, in the exercise of its general and special powers, and in the carrying out of its special purposes, is both within the external boundaries of the legal description of this district and extraterritorially when limited to, and as authorized expressly elsewhere in, the charter of the district as created in this act or applicable general law.

Section 6(7) of the charter authorizes the district to, using its general and special powers, provide any project within or without the boundaries of the district when the project is the subject of an agreement between the district and the Brevard County Board of County Commissioners or with any other applicable public or private entity, or is approved or required by a development order and is not inconsistent with the effective local comprehensive plan.

The ability of the District to exercise its general and special powers *outside its boundaries* may raise questions regarding the levy of special assessments on property owners within the District if proceeds of the special assessments, fees, or non-ad valorem taxes are used to fund projects outside the District. The charter is unclear as to when and under what circumstances the District may exercise its powers extraterritorially or how assessments, taxes, and fees will be apportioned to fund projects outside District boundaries.

New Powers to Community Development Districts

Although the District is created pursuant to chapter 189, Florida Statutes, Section 3(2) of the bill attempts to give the District future powers that may be included in ch. 190, F.S., relating to Community Development Districts as follows:

Any amendments to chapter 190, Florida Statutes, after January 1, 2006, granting additional general powers, special powers, authorities, or projects to a community development district by amendment to its uniform charter, sections 190.006-190.041, Florida Statutes, shall constitute a general power, special power, authority, or function of the Viera Stewardship District.

Therefore, if the Legislature amends ch. 190, F.S., to grant community development districts additional authority at any time in the future, that additional authority will be automatically granted to the District without further legislative review or enactment.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

Published Daily

STATE OF FLORIDA
COUNTY OF BREVARD

Before the undersigned authority personally appeared MAUREEN FARR who on
oath says that she is LEGAL ADVERTISING CLERK

of the **FLORIDA TODAY**, a newspaper published in Brevard County, Florida;
that the attached copy of advertising being a **LEGAL NOTICE**

(AD#672651-\$58.43) in the matter of _____

HOPPING GREEN & SAMS, P.A.

_____ in the _____ Court

NOTICE OF INTENT TO SEEK LEGISLATION

was published in the **FLORIDA TODAY**

in the issues of **JANUARY 20, 2006**

affiant further says that the said FLORIDA TODAY

is a newspaper in said Brevard County, Florida, and that the said newspaper has heretofore been continuously published in said Brevard County, Florida, regularly as stated above, and has been entered as periodicals matter at the post office in MELBOURNE in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Maureen Carr
(Signature of Affiant)

Sworn to and subscribed before this 20TH DAY OF JANUARY, 2006

Linda L. Brand
(Signature of Notary Public)

LINDA L. BRAUD
(Name of Notary Typed, Printed or Stamped)

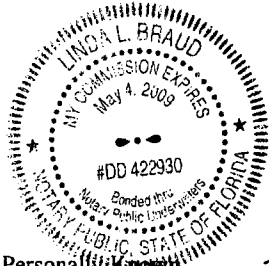
Personally Known _____ or Produced Identification _____
Type Identification Produced _____

AD#472651-1/20.2006

NOTICE OF INTENT TO SEEK LEGISLATION

TO WHOM IT MAY CONCERN:

Notice is hereby given of intent to sponsor the 2007 Florida Legislature for passage of an act relative to Brevard County. The legislation would create a new independent special district within such county, tentatively called the St. Johns Stewardship District. The district would be designed to fund, finance and provide infrastructure and services to persons and property within the district boundaries, which are within unincorporated areas in Brevard County. The legislation would describe the district's boundaries, create the district charter, provide for a governing board, establish district powers, provide for required referenda, and provide an effective date.



**HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION**

BILL #: HB 1559
SPONSOR(S): Rep. Ralph Poppell
RELATING TO: Brevard County
[Indicate Area Affected (City, County, Special District) and Subject]
NAME OF DELEGATION: Brevard County
CONTACT PERSON: Andrew Grogan
PHONE # and E-Mail: (850) 488-3006 andrew.grogan@myfloridahouse.gov

- I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.*

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES ☒ NO ☐

(2) Has a public hearing been held? YES ☒ NO ☐

Date hearing held: 12/15/2005

Location: Brevard County Commission Chamber, 2725 Judge Fran Jamieson Way
Melbourne, FL 32940

(3) Was this bill formally approved by a majority of the delegation members?
YES ☒ NO ☐ UNIT RULE ☐ UNANIMOUS ☐

- II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES ☒ NO ☐ DATE [01/20/2006]

Where? Florida Today Newspaper County Brevard


Referendum in lieu of publication: YES ☐ NO ☒

- III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?

YES ☒ NO ☐ NOT APPLICABLE ☐

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.



Delegation Chair (Original Signature) 3/9/06
Date

**HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION**

BILL #: HB 1559
SPONSOR(S): Rep. Ralph Poppell
RELATING TO: Brevard County
[Indicate Area Affected (City, County, Special District) and Subject]
NAME OF DELEGATION: Brevard County
CONTACT PERSON: Andrew Grogan
PHONE # and E-Mail: (850) 488-3006 andrew.grogan@myfloridahouse.gov

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(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES ☒ NO ☐

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Has this constitutional notice requirement been met?

Notice published: YES ☒ NO ☐ DATE [01/20/2006]

Where? Florida Today Newspaper County Brevard


Referendum in lieu of publication: YES ☐ NO ☒

- III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?

YES ☒ NO ☐ NOT APPLICABLE ☐

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.



Delegation Chair (Original Signature) 3/9/06 Date

House of Representatives 2006 Economic Impact Statement

House policy requires that economic impact statements for local bills be prepared at the Local Level. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

Bill# 1559
Sponsor(s): Ralph Poppell
Relating To: Creation of Viera Stewardship District

I. Estimated Cost of Administration, Implementation, and Enforcement:

| | <u>FY 05-06</u> | <u>FY 06-07</u> |
|---------------|-----------------|-----------------|
| Expenditures: | \$0 | \$0 |

There are no State, Local or Federal expenditures involved with the proposed bill. The proposed Viera Stewardship District will be a self-funding Special Taxing District which will not require any funding from other local governments.

II. Anticipated Source(s) of Funding:

| | <u>FY 05-06</u> | <u>FY 06-07</u> |
|----------|-----------------|-----------------|
| Federal: | \$0 | \$0 |
| State: | \$0 | \$0 |
| Local: | \$0 | \$0 |

The sources of funding will consist of maintenance and debt service assessments levied against the developable properties within the geographical boundaries of the Viera Stewardship District. It is anticipated that the District will be utilized to finance, construct and maintain the community wide public infrastructure of the development.

No local funding is anticipated during the above referenced fiscal years. In future years, the District will be self-funding with the amount of the funding dependent upon the approved development plan.

III. Anticipated New, Increased, or Decreased Revenues:

| | <u>FY 05-06</u> | <u>FY 06-07</u> |
|----------|-----------------|-----------------|
| Federal: | \$0 | \$0 |
| State: | \$0 | \$0 |
| Local: | \$0 | \$0 |

There are no anticipated new, increased or decreased revenues anticipated during the above referenced fiscal years.

IV. Estimated Economic Impact on Individuals, Business, or Governments:

Advantages: Increased tax revenues to the state and local governments from the development of the property for residential, commercial and industrial use. The public infrastructure cost will be paid for by the property owners within the proposed development therefore not overburdening the state and local general purpose governments with providing the necessary infrastructure for development. By providing the necessary public infrastructure to allow development, this will attract new businesses and create jobs in the local communities.

The Viera Stewardship District is approximately 13,400 acres located in Brevard County and is anticipated to consist of residential, commercial and light industrial development. However, the types and extent of development within the District is ultimately contingent upon securing the necessary development approvals from Brevard County. A development of this size will have a significant positive economic impact on individuals, businesses and governments.

Disadvantages: There are no disadvantages. Required disclosures to future property owners will inform potential purchaser about the Viera Stewardship District and the financial obligations placed upon them as property owners within the District.

V. Estimated Impact Upon Competition and the Open Market For Employment:

There will be a positive impact. The Viera Stewardship District will provide the necessary public infrastructure to promote development within the District which will have a positive impact on employment. New businesses will be established in the District from the increase in population due to the proposed residential development. The construction of the infrastructure will be the responsibility of the District, thus subject to government standards for contracting, bidding and government in the "sunshine".

VI. Data and Method Used in Making Estimates (Include Source(s) of Data):

Proposed Viera Stewardship Act

Prepared By: George S. Flint

George S. Flint 1/20/06

Title: Vice President

Representing: GMS-Central Florida, LLC

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1 A bill to be entitled
2 An act relating to Brevard County; creating the Viera
3 Stewardship District; providing a short title; providing
4 legislative findings and intent; providing definitions;
5 stating legislative policy regarding creation of the
6 district; establishing compliance with minimum
7 requirements in s. 189.404(3), F.S., for creation of an
8 independent special district; providing for creation and
9 establishment of the district; establishing the legal
10 boundaries of the district; providing for the jurisdiction
11 and charter of the district; providing for a board of
12 supervisors and establishing membership criteria and
13 election procedures; providing for board members' terms of
14 office; providing for board meetings; providing for
15 administrative duties of the board; providing a method for
16 transition of the board from landowner control to control
17 by the resident electors of the district; providing for a
18 district manager and district personnel; providing for a
19 district treasurer, selection of a public depository, and
20 district budgets and financial reports; providing for the
21 general powers of the district; providing for the special
22 powers of the district to plan, finance, and provide
23 community infrastructure and services within the district;
24 providing for required notices to purchasers of
25 residential units within the district; providing
26 severability; providing for a referendum; providing an
27 effective date.
28

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Short title.--This act may be cited as the
"Viera Stewardship District Act."

Section 2. Legislative findings and intent; definitions;
policy.--

(1) LEGISLATIVE FINDINGS AND INTENT.--

(a) The extensive lands located within Brevard County and
covered by this act contain many opportunities for thoughtful,
comprehensive, environmentally responsible, and consistent
development over a long period.

(b) There is a particular special need to use a
specialized and limited single-purpose independent special
district unit of local government for the district lands located
within Brevard County and covered by this act to prevent urban
sprawl by providing sustaining and freestanding infrastructure
and by preventing needless and counterproductive community
development when the existing urban area is not yet developed,
and to prevent the needless duplication, fragmentation, and
proliferation of local government services in a proposed land
use area.

(c) The establishment of such a limited specialized
single-purpose local government for the district lands will
serve a necessary and useful public purpose by providing an
efficient and effective method of ensuring the long-term
stewardship of environmental and conservation resources within
the district through the comprehensive management of the
district's ecosystem, including, but not limited to, the

57 implementation and administration of habitat protection and
58 management plans approved by regulatory agencies having
59 jurisdiction and the local governing authority.

60 (d) The creation and establishment of the district will
61 constitute a timely, efficient, effective, responsive, and
62 economical method to deliver capital infrastructure, facilities,
63 and services to accommodate the growth projected under Brevard
64 County's comprehensive land use plan for the extensive lands
65 comprising the district, by providing a legitimate alternative
66 method for owning, operating, constructing, and financing such
67 infrastructure, facilities, and services which will not
68 overburden local general purpose governments and their
69 taxpayers.

70 (e) While chapter 190, Florida Statutes, provides an
71 opportunity for community development services and facilities to
72 be provided by the establishment of community development
73 districts in a manner that furthers the public interest, given
74 the vast nature of the lands covered by this act and the
75 potentially long-term nature of its development, establishing
76 multiple community development districts over these lands would
77 result in an inefficient, duplicative, and needless
78 proliferation of local special purpose government, contrary to
79 the public interest and the Legislature's findings in chapter
80 190, Florida Statutes. Instead, it is in the public interest
81 that the long-range provision for, and management, financing,
82 and long-term maintenance, upkeep, and operation of, services
83 and facilities to be provided for ultimate development of the
84 lands covered by this act be under one coordinated entity.

85 (f) Longer involvement of the initial landowner with
86 regard to the provision of systems, facilities, and services for
87 the district lands, coupled with a severely limited and highly
88 specialized single purpose of the district is in the public
89 interest.

90 (g) Any public or private system to provide infrastructure
91 improvements, systems, facilities, and services to these lands
92 must be focused on an unfettered, highly specialized,
93 innovative, responsive, and accountable mechanism to provide the
94 components of infrastructure at sustained levels of high quality
95 over the long term only when and as needed for such a unique
96 community in such a unique area.

97 (h) There is a need to coincide the use and special
98 attributes of various public and private alternatives for the
99 provision of infrastructure to such a community development,
100 including the limited, flexible, focused, and locally
101 accountable management and related financing capabilities of
102 independent special-purpose local government.

103 (i) The existence and use of such a limited specialized
104 single purpose local government for the district lands, subject
105 to the respective county comprehensive plans, will result in a
106 high propensity to provide for orderly development and prevent
107 urban sprawl; protect and preserve environmental, conservation,
108 and agricultural uses and assets; enhance the market value for
109 both present and future landowners of the property consistent
110 with the need to protect private property; enhance the net
111 economic benefit to the Brevard County area, including an
112 enhanced and well-maintained tax base to the benefit of all

present and future taxpayers in Brevard County; and result in the sharing of costs of providing certain systems, facilities, and services in an innovative, sequential, and flexible manner within the developing area to be serviced by the district.

(j) The creation and establishment of the district will encourage local government financial self-sufficiency in providing public facilities and in identifying and implementing physically sound, innovative, and cost-effective techniques to provide and finance public facilities while encouraging development, use, and coordination of capital improvement plans by all levels of government, pursuant to chapter 187, Florida Statutes.

(k) The creation and establishment of the district will encourage and enhance cooperation among communities that have unique assets, irrespective of political boundaries, to bring the private and public sectors together for establishing an orderly and environmentally and economically sound plan for current and future needs and growth.

(l) In order to be responsive to the critical timing required through the exercise of its special management functions, an independent district requires financing of those functions, including bondable lienable and nonlienable revenue, with full and continuing public disclosure and accountability, funded by landowners, both present and future, and funded also by users of the systems, facilities, and services provided to the land area by the district, without unduly burdening the taxpayers and citizens of the state, Brevard County, or any municipality therein.

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(m) The district created and established by this act shall not have or exercise any comprehensive planning, zoning, or development permitting power; the establishment of the district shall not be considered a development order within the meaning of chapter 380, Florida Statutes; and all applicable planning and permitting laws, rules, regulations, and policies of Brevard County control the development of the land to be serviced by the district.

(n) The creation by this act of the Viera Stewardship District is not inconsistent with the Brevard County comprehensive plan.

(o) It is the legislative intent and purpose that no debt or obligation of the district constitute a burden on any local general-purpose government without its consent.

(2) DEFINITIONS.--As used in this act:

(a) "Ad valorem bonds" means bonds which are payable from the proceeds of ad valorem taxes levied on real and tangible personal property and which are generally referred to as general obligation bonds.

(b) "Assessable improvements" means, without limitation, any and all public improvements and community facilities that the district is empowered to provide in accordance with this act that provide a special benefit to property within the district.

(c) "Assessment bonds" means special obligations of the district which are payable solely from proceeds of the special assessments or benefit special assessments levied for assessable improvements, provided that, in lieu of issuing assessment bonds to fund the costs of assessable improvements, the district may

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issue revenue bonds for such purposes payable from special assessments.

(d) "Assessments" means those nonmillage district assessments which include special assessments, benefit special assessments, and maintenance special assessments and a nonmillage, non-ad valorem maintenance tax if authorized by general law.

(e) "Benefit special assessments" are district assessments imposed, levied, and collected pursuant to the provisions of section 6(12)(b).

(f) "Board of supervisors" or "board" means the governing board of the district or, if such board has been abolished, the board, body, or commission assuming the principal functions thereof or to whom the powers given to the board by this act have been given by law.

(g) "Bond" includes "certificate" and the provisions that are applicable to bonds are equally applicable to certificates. The term "bond" includes any general obligation bond, assessment bond, refunding bond, revenue bond, and other such obligation in the nature of a bond as is provided for in this act.

(h) "Cost" or "costs," when used with reference to any project, includes, but is not limited to:

1. The expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction.

2. The cost of surveys, estimates, plans, and specifications.

3. The cost of improvements.

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196 4. Planning, engineering, designing, fiscal, legal, and
197 other professional and consultant expenses and charges.

198 5. The cost of all labor, materials, machinery, and
199 equipment.

200 6. The cost of all lands, properties, rights, easements,
201 and franchises acquired.

202 7. Financing charges.

203 8. The creation of initial reserve and debt service funds.

204 9. Working capital.

205 10. Interest charges incurred or estimated to be incurred
206 on money borrowed prior to and during construction and
207 acquisition and for such reasonable period of time after
208 completion of construction or acquisition as the board may
209 determine.

210 11. The cost of issuance of bonds pursuant to this act,
211 including advertisements and printing.

212 12. The cost of any bond or tax referendum held pursuant
213 to this act and all other expenses of issuance of bonds.

214 13. The discount, if any, on the sale or exchange of
215 bonds.

216 14. Administrative expenses.

217 15. Such other expenses as may be necessary or incidental
218 to the acquisition, disposition, transfer, construction, or
219 reconstruction of any project, to the financing thereof, or to
220 the development of any lands within the district.

221 16. Payments, contributions, dedications, and any other
222 exactions required as a condition of receiving any governmental
223 approval or permit necessary to accomplish any district purpose.

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224 (i) "District" means the Viera Stewardship District.
 225 (j) "District manager" means the manager of the district.
 226 (k) "District roads" means highways, streets, roads,
 227 alleys, sidewalks, landscaping, storm drains, bridges, and
 228 thoroughfares of all kinds.
 229 (l) "General obligation bonds" means bonds which are
 230 secured by, or provide for their payment by, the pledge of the
 231 full faith and credit and taxing power of the district, in
 232 addition to those special taxes levied for their discharge and
 233 such other sources as may be provided for their payment or
 234 pledged as security under the resolution authorizing their
 235 issuance, and for payment of which recourse may be had against
 236 the general fund of the district.
 237 (m) "Governing board member" means any member of the board
 238 of supervisors.
 239 (n) "Land development regulations" means those regulations
 240 of general purpose local government, adopted under the Florida
 241 Local Government Comprehensive Planning and Land Development
 242 Regulation Act, part II of chapter 163, Florida Statutes, to
 243 which the district is subject and as to which the district may
 244 not do anything that is inconsistent. Land development
 245 regulations shall not mean specific management, engineering,
 246 planning, operating, and other criteria and standards needed in
 247 the daily management, implementation, and provision by the
 248 district of systems, facilities, services, works, improvements,
 249 projects, or infrastructure, including design criteria and
 250 standards, so long as they remain subject to and are not
 251 inconsistent with the applicable land development regulations.

252 (o) "Landowner" means the owner of a freehold estate as it
253 appears on the deed record, including a trustee, a private
254 corporation, and an owner of a condominium unit. "Landowner"
255 does not include a reversioner, remainderman, mortgagee, or any
256 governmental entity, who shall not be counted and need not be
257 notified of proceedings under this act. "Landowner" also means
258 the owner of a ground lease from a governmental entity, which
259 leasehold interest has a remaining term, excluding all renewal
260 options, in excess of 50 years.

261 (p) "General-purpose local government" means a county,
262 municipality, or consolidated city-county government.

263 (q) "Maintenance special assessments" are assessments
264 imposed, levied, and collected pursuant to the provisions of
265 section 6(12)(d).

266 (r) "Non-ad valorem assessment" means only those
267 assessments which are not based upon millage and which can
268 become a lien against a homestead as permitted in s. 4, Art. X
269 of the State Constitution.

270 (s) "Powers" means powers used and exercised by the board
271 to accomplish the single, limited, and special purpose of the
272 district, including:

273 1. "General powers" means those organizational and
274 administrative powers of the district as provided in this
275 charter in order to carry out its single special purpose as a
276 local government public corporate body politic.

277 2. "Special powers" means those powers enumerated by the
278 district charter to implement its specialized systems,
279 facilities, services, projects, improvements, and infrastructure

280 and related functions in order to carry out its single
281 specialized purpose.

282 3. Any other powers, authority, or functions set forth in
283 this act or in chapter 189 or chapter 190, Florida Statutes.

284 (t) "Project" means any development, improvement,
285 property, power, utility, facility, enterprise, service, system,
286 works, or infrastructure now existing or hereafter undertaken or
287 established under the provisions of this act.

288 (u) "Qualified elector" means any person at least 18 years
289 of age who is a citizen of the United States and a legal
290 resident of the state and of the district and who registers to
291 vote with the Supervisor of Elections of Brevard County.

292 (v) "Refunding bonds" means bonds issued to refinance
293 outstanding bonds of any type and the interest and redemption
294 premium thereon. Refunding bonds shall be issuable and payable
295 in the same manner as refinanced bonds, except that no approval
296 by the electorate shall be required unless required by the State
297 Constitution.

298 (w) "Revenue bonds" means obligations of the district that
299 are payable from revenues, including, but not limited to,
300 special assessments and benefit special assessments, derived
301 from sources other than ad valorem taxes on real or tangible
302 personal property and that do not pledge the property, credit,
303 or general tax revenue of the district.

304 (x) "Sewer system" means any plant, system, facility, or
305 property, and additions, extensions, and improvements thereto at
306 any future time constructed or acquired as part thereof, useful
307 or necessary or having the present capacity for future use in

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308 connection with the collection, treatment, purification, or
309 disposal of sewage, including, but not limited to, industrial
310 wastes resulting from any process of industry, manufacture,
311 trade, or business or from the development of any natural
312 resource. "Sewer system" also includes treatment plants, pumping
313 stations, lift stations, valves, force mains, intercepting
314 sewers, laterals, pressure lines, mains, and all necessary
315 appurtenances and equipment; all sewer mains, laterals, and
316 other devices for the reception and collection of sewage from
317 premises connected therewith; and all real and personal property
318 and any interest therein, and rights, easements, and franchises
319 of any nature relating to any such system and necessary or
320 convenient for operation thereof.

321 (y) "Special assessments" means assessments as imposed,
322 levied, and collected by the district for the costs of
323 assessable improvements pursuant to the provisions of this act,
324 chapter 170, Florida Statutes, and the additional authority
325 under section 197.3631, Florida Statutes, or other provisions of
326 general law, now or hereinafter enacted, which provide or
327 authorize a supplemental means to impose, levy, or collect
328 special assessments.

329 (z) "Taxes" or "tax" means those levies and impositions of
330 the board that support and pay for government and the
331 administration of law and that may be:

332 1. Ad valorem or property taxes based upon both the
333 appraised value of property and millage, at a rate uniform
334 within the jurisdiction; or

2. If and when authorized by general law, non-ad valorem maintenance taxes not based on millage that are used to maintain district systems, facilities, and services.

(aa) "Viera Stewardship District" means the unit of special and single purpose local government created and chartered by this act, including the creation of its charter, and limited to the performance, in implementing its single purpose, of those general and special powers authorized by its charter under this act, the boundaries of which are set forth by the act, the governing head of which is created and authorized to operate with legal existence by this act, and the purpose of which is as set forth in this act.

(bb) "Water management and control facilities" means any lakes, canals, ditches, reservoirs, dams, impoundments, levees, sluiceways, floodways, pumping stations, or any other works, structures, or facilities for the conservation, control, development, utilization, and disposal of nonpotable water, and any purposes appurtenant, necessary or incidental thereto. The term "water management and control facilities" includes all real and personal property and any interest therein, rights, easements, and franchises of any nature relating to any such water management and control facilities or necessary or convenient for the acquisition, construction, reconstruction, operation or maintenance thereof.

(cc) "Water system" means any plant, system, facility, or property, and any addition, extension, or improvement thereto at any future time constructed or acquired as a part thereof, useful, necessary, or having the present capacity for future use

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in connection with the development of sources, treatment,
purification, or distribution of water. "Water system" also
includes dams, reservoirs, storage tanks, mains, lines, valves,
pumping stations, laterals, and pipes for the purpose of
carrying water to the premises connected with such system, and
all rights, easements, and franchises of any nature relating to
any such system and necessary or convenient for the operation
thereof.

(3) POLICY.--Based upon its findings, ascertainments,
determinations, intent, purpose, and definitions, the
Legislature states its policy expressly:

(a) The district and the district charter, with its
general and special powers, as created in this act, are
essential and the best alternative for the residential,
commercial, and other community uses, projects, or functions in
the included portions of Brevard County consistent with the
effective comprehensive plans and designed to serve a lawful
public purpose.

(b) The district, which is a local government and
political subdivision, is limited to its special purpose as
expressed in this act, with the power to provide, plan,
implement, construct, operate, maintain, repair, improve,
replace, manage, and finance as a local government management
entity its systems, facilities, services, improvements,
infrastructure, and projects and possessing financing powers to
fund its management power over the long term and with sustained
levels of high quality.

390 (c) The creation of the Viera Stewardship District by and
391 pursuant to this act, and its exercise of its management and
392 related financing powers to implement its limited, single, and
393 special purpose, is not a development order and does not trigger
394 or invoke any provision within the meaning of chapter 380,
395 Florida Statutes, and all applicable governmental planning,
396 environmental, and land development laws, regulations, rules,
397 policies, and ordinances apply to all development of the land
398 within the jurisdiction of the district as created by this act.
399 Moreover, the creation of the district itself shall neither
400 cause a reclassification for assessment purposes of any
401 agricultural lands within the district, nor prohibit or preclude
402 the use of any land within the district for agricultural
403 purposes or for any use related thereto.

404 (d) The district shall operate and function subject to,
405 and not inconsistent with, the comprehensive plan of Brevard
406 County and any applicable development orders, zoning
407 regulations, and other land development regulations.

408 (e) The special and single purpose Viera Stewardship
409 District shall not have the power of a general-purpose local
410 government to adopt a comprehensive plan or related land
411 development regulation as those terms are defined in the Local
412 Government Comprehensive Planning and Land Development
413 Regulation Act.

414 (f) This act may be amended, in whole or in part, only by
415 special act of the Legislature. No amendment to this act that
416 alters the district boundaries or the general or special powers
417 of the district may be considered by the Legislature unless it

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is accompanied by a resolution or official statement as provided for in section 189.404(2)(e)4., Florida Statutes.

Section 3. Minimum charter requirements; creation and establishment; jurisdiction; construction; charter with legal description.--

(1) Pursuant to section 189.404(3), Florida Statutes, the Legislature sets forth that the minimum requirements in paragraphs (a)-(o) have been met in the identified provisions of this act as follows:

(a) The reasons for the district are articulated in the findings in section 2, and the specific functions of the district are described through the powers granted to the district throughout the bill. However, in summary, the general purpose of the district is to provide, through a special purpose governmental entity, certain capital infrastructure, facilities and services which benefit the residents of the district.

(b) The powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements are set forth in section 6.

(c) The provisions for methods for establishing the district are in this section.

(d) The methods for amending the charter of the district are set forth in section 2.

(e) The provisions for the membership and organization of the governing board and the establishment of a quorum are in section 5.

(f) The provisions regarding maximum compensation of each board member are in section 5.

(g) The provisions regarding the administrative duties of the governing board are found in sections 5 and 6.

(h) The provisions applicable to financial disclosure, noticing, and reporting requirements generally are set forth in sections 5 and 6.

(i) The provisions regarding procedures and requirements for issuing bonds are set forth in section 6.

(j) The provisions regarding elections or referenda and the qualifications of an elector of the district are in sections 2 and 5.

(k) The provisions regarding methods for financing the district are generally in section 6.

(l) Other than taxes levied for the payment of bonds and taxes levied for periods not longer than 2 years when authorized by vote of the electors of the district, the provisions for the authority to levy ad valorem tax and the authorized millage rate are in section 6.

(m) The provisions for the method or methods of collecting non-ad valorem assessments, fees, or service charges are in section 6.

(n) The provisions for planning requirements are in this section and section 6.

(o) The provisions for geographic boundary limitations of the district are set forth in sections 4 and 6.

(2) The Viera Stewardship District, which also may be referred to as the "stewardship district," "Viera District," or "district," is created and incorporated as a public body corporate and politic, an independent, limited, special purpose local government, an independent special district, under section 189.404, Florida Statutes, and as defined in this act and in section 189.403(3), Florida Statutes. Any amendments to chapter 190, Florida Statutes, after January 1, 2006, granting additional general powers, special powers, authorities, or projects to a community development district by amendment to its uniform charter, sections 190.006-190.041, Florida Statutes, shall constitute a general power, special power, authority, or function of the Viera Stewardship District. All notices for the enactment by the Legislature of this special act have been provided pursuant to the State Constitution, the laws of Florida and the Rules of the Florida House of Representatives and of the Florida Senate. Subject to the referendum requirement in section 9, the district, as created by this act, is established on the property described in this act.

(3) The territorial boundary of the district shall embrace and include all of that certain real property described legally in section 4.

(4) The jurisdiction of this district, in the exercise of its general and special powers, and in the carrying out of its special purposes, is both within the external boundaries of the legal description of this district and extraterritorially when

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499 limited to, and as authorized expressly elsewhere in, the
500 charter of the district as created in this act or applicable
501 general law. This special-purpose district is created as a
502 public body corporate and politic, and local government
503 authority and power is limited by its charter, this act, and
504 subject to the provisions of other general laws, including
505 chapter 189, Florida Statutes, except that an inconsistent
506 provision in this act shall control and the district has
507 jurisdiction to perform such acts and exercise such authorities,
508 functions, and powers as shall be necessary, convenient,
509 incidental, proper, or reasonable for the implementation of its
510 limited, single, and specialized purpose regarding the sound
511 planning, provision, acquisition, development, operation,
512 maintenance, and related financing of those public systems,
513 facilities, services, improvements, projects, and infrastructure
514 works as authorized herein, including those necessary and
515 incidental thereto.

516 (5) The exclusive charter of the Viera Stewardship
517 District is this act and, except as otherwise provided in
518 subsection (2), may be amended only by special act of the
519 Legislature.

520 Section 4. Legal description of the Viera Stewardship
521 District.--

522 The legal description of the district, within which
523 there are no parcels of property owned by those who do
524 not wish for their property to be included within the
525 district, is as follows:

526 Commence at a 4" X 4" concrete monument at the
527 Northwest corner of Section 30, Township 25 South,
528 Range 36 East and run N89°21'55"E, along the North
529 line of said Section 30, a distance of 2,545.93 feet,
530 to an iron rod and the POINT OF BEGINNING of the
531 herein described lands; thence S08°24'33"E, a distance
532 of 748.62 feet, to an iron rod; thence S08°55'25"E, a
533 distance of 405.40 feet, to an iron rod; thence
534 S07°53'09"E, a distance of 404.42 feet, to an iron
535 rod; thence S07°41'38"E, a distance of 556.16 feet, to
536 an iron rod; thence S08°07'57"E, a distance of 556.72
537 feet, to an iron rod; thence S07°54'48"E, a distance
538 of 556.44 feet, to an iron rod; thence S08°10'16"E, a
539 distance of 880.33 feet, to an iron rod; thence
540 S07°57'39"E, a distance of 482.44 feet, to an iron
541 rod; thence S79°41'18"W, a distance of 8.69 feet, to
542 an iron rod; thence S07°38'31"E, a distance of 396.84
543 feet, to an iron rod; thence S13°30'01"W, a distance
544 of 6.84 feet, to an iron rod; thence S68°53'11"W, a
545 distance of 456.26 feet, to an iron rod; thence
546 S75°44'29"W, a distance of 86.29 feet, to an iron rod;
547 thence S64°14'40"W, a distance of 129.79 feet, to an
548 iron rod; thence S68°29'29"W, a distance of 703.75
549 feet, to an iron rod; thence S03°43'55"E, a distance
550 of 774.28 feet, to an iron rod; thence S03°43'05"E, a
551 distance of 420.39 feet, to an iron rod; thence
552 S17°31'55"W, a distance of 31.51 feet, to an iron rod;
553 thence S02°10'23"W, a distance of 15.32 feet, to an

554 iron rod; thence S84°49'06"W, a distance of 1,260.85
555 feet, to an iron rod; thence S65°26'07"W, a distance
556 of 553.39 feet, to an iron rod; thence S65°16'09"W, a
557 distance of 553.65 feet, to an iron rod; thence
558 S65°26'06"W, a distance of 552.21 feet, to an iron
559 rod; thence S65°42'09"W, a distance of 553.14 feet, to
560 an iron rod; thence S86°33'52"W, a distance of 560.20
561 feet, to an iron rod; thence S86°36'43"W, a distance
562 of 1,119.98 feet, to an iron rod; thence N15°49'12"W,
563 a distance of 53.08 feet, to an iron rod; thence
564 S88°41'21"W, a distance of 144.31 feet to an iron rod;
565 thence S86°14'12"W, a distance of 360.22 feet, to an
566 iron rod; thence S44°22'00"W, a distance of 2,194.87
567 feet, to an iron rod; thence S02°24'20"E, a distance
568 of 99.12 feet, to an iron rod; thence S46°55'21"W, a
569 distance of 146.56 feet, to an iron rod; thence
570 S65°38'19"W, a distance of 194.77 feet, to an iron
571 rod; thence S63°42'25"W, a distance of 577.43 feet, to
572 an iron rod; thence S69°45'01"W, a distance of 412.41
573 feet, to an iron rod; thence N89°15'09", a distance of
574 79.29 feet, to an iron rod; thence S73°35'49W, a
575 distance of 521.37 feet, to an iron rod; thence
576 S87°25'48"W, a distance of 483.14 feet, to an iron
577 rod; thence S87°26'32"W, a distance of 966.55 feet, to
578 an iron rod; thence S87°21'06"W, a distance of 485.66
579 feet, to an iron rod; thence S62°14'38"W, a distance
580 of 444.40 feet, to an iron rod; thence S62°17'07"W, a
581 distance of 446.88 feet, to an iron rod; thence

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582 S62°19'23"W, a distance of 358.90 feet, to an iron
583 rod; thence S62°27'13"W, a distance of 370.19 feet, to
584 an iron rod; thence S77°23'47"W, a distance of 411.83
585 feet, to an iron rod; thence S00°53'45"W, a distance
586 of 125.73 feet, to an iron rod; thence S00°13'05"W, a
587 distance of 658.60 feet, to an iron rod; thence
588 S00°02'40"E, a distance of 1,583.00 feet, to an iron
589 rod; thence S00°01'31"E, a distance of 543.46 feet, to
590 an iron rod; thence S06°38'41"E, a distance of 236.05
591 feet, to an iron rod; thence S00°05'15"W, a distance
592 of 1,609.02 feet, to an iron rod, thence N89°56'44"E,
593 a distance of 1,150.63 feet, to an iron rod; thence
594 N89°41'56"E, a distance of 575.37 feet, to an iron
595 rod; thence S89°48'28"E, a distance of 575.27 feet, to
596 an iron rod; thence S05°17'41"E, a distance of
597 5,150.06 feet, to an iron rod; thence S88°28'59"W, a
598 distance of 892.20 feet, to an iron rod; thence
599 S89°18'35"W, a distance of 1,352.16 feet, to an iron
600 rod; thence N88°11'42"W, a distance of 478.57 feet, to
601 an iron rod; thence S04°20'09"W, a distance of 165.35
602 feet, to an iron rod; thence S44°31'42"E, a distance
603 of 1,884.04 feet, to an iron rod; thence S44°35'30"E,
604 a distance of 3,917.97 feet, to an iron rod; thence
605 S62°09'21"E, a distance of 2,317.97 feet, to an iron
606 rod; thence S61°05'48"E, a distance of 649.92 feet, to
607 an iron rod; thence N47°11'55", a distance of 35.75
608 feet, to an iron rod; thence S61°57'44"E, a distance
609 of 923.38 feet, to an iron rod; thence S41°26'58"E, a

610 distance of 273.10 feet, to an iron rod; thence
 611 S30°04'29"E, a distance of 310.25 feet, to an iron
 612 rod; thence S34°43'38"E, a distance of 598.07 feet, to
 613 an iron rod; thence S26°25'22"E, a distance of 301.86
 614 feet, to an iron rod; thence S04°19'41"E, a distance
 615 of 773.92 feet, to an iron rod; thence S03°54'52"E, a
 616 distance of 1,444.29 feet, to an iron rod; thence
 617 S88°57'24"E, a distance of 504.03 feet, to an iron
 618 rod; thence S13°21'03"W, a distance of 118.12 feet, to
 619 an iron rod; thence S34°02'56"W, a distance of
 620 1,348.21 feet, to an iron rod; thence S45°13'06"W, a
 621 distance of 1,297.85 feet, to an iron rod; thence
 622 S63°01'28"W, a distance of 72.85 feet, to an iron rod;
 623 thence S35°48'10"E, a distance of 45.45 feet, to an
 624 iron rod; thence S36°43'44"E, a distance of 81.14
 625 feet, to an iron rod; thence S43°22'10"E, a distance
 626 of 2,416.90 feet, to an iron rod; thence S54°43'27"E,
 627 a distance of 118.25 feet, to an iron rod; thence
 628 S76°01'08"E, a distance of 114.63 feet, to an iron
 629 rod; thence S89°15'48"E, a distance of 397.01 feet, to
 630 an iron rod; thence S67°53'23"E, a distance of 92.26
 631 feet, to a iron rod; thence S27°40'02"E, a distance of
 632 156.14 feet, to an iron rod; thence S64°16'29"E, a
 633 distance of 37.61 feet, to an iron rod; thence
 634 S89°15'14"E, a distance of 352.87 feet, to an iron
 635 rod; thence S85°51''17"E, a distance of 307.67 feet,
 636 to an iron rod; thence N86°54'20"E, a distance of
 637 151.74 feet, to an iron rod; thence N76°30'06"E, a

638 distance of 261.56 feet, to an iron rod; thence
639 N87°06'14"E, a distance of 251.77 feet, to an iron
640 rod; thence N88°53'08"E, a distance of 158.24 feet, to
641 an iron rod; thence N85°02'05"E, a distance of 159.48
642 feet, to an iron rod; thence S87°50'11"E, a distance
643 of 174.88 feet, to an iron rod; thence S83°44'02"E, a
644 distance of 176.43 feet, to an iron rod; thence
645 S86°24'25"E, a distance of 258.17 feet, to an iron
646 rod; thence S81°07'19"E, a distance of 151.23 feet, to
647 an iron rod; thence N73°40'28"E, a distance of 247.99
648 feet, to an iron rod; thence N84°35'54"E, a distance
649 of 81.80 feet, to an iron rod; thence S79°39'38"E, a
650 distance of 98.82 feet, to an iron rod; thence
651 S67°29'44"E, a distance of 168.94 feet, to an iron
652 rod; thence S56°25'12"E, a distance of 206.81 feet, to
653 an iron rod; thence S70°16'15"E, a distance of 241.47
654 feet, to an iron rod; thence S71°16'02"E, a distance
655 of 271.51 feet, to an iron rod; thence S76°57'22"E, a
656 distance of 144.38 feet, to an iron rod; thence
657 S83°43'51"E, a distance of 362.54 feet, to an iron
658 rod; thence S82°09'02"E, a distance of 428.93 feet, to
659 an iron rod; thence S76°54'20"E, a distance of 74.04
660 feet, to an iron rod; thence S69°05'45"E, a distance
661 of 73.41 feet, to an iron rod; thence S54°06'44"E, a
662 distance of 97.18 feet, to an iron rod; thence
663 S37°26'00"E, a distance of 287.82 feet, to an iron
664 rod; thence S54°56'39"E, a distance of 72.06 feet, to
665 an iron rod; thence S73°11'26"E, a distance of 65.07

666 feet, to an iron rod; thence S79°38'52"E, a distance
667 of 374.93 feet, to an iron rod; thence S74°51'17"E, a
668 distance of 156.56 feet, to an iron rod; thence
669 S60°41'38"E, a distance of 171.07 feet, to an iron
670 rod; thence S75°22'42"E, a distance of 109.56 feet, to
671 an iron rod; thence S52°26'28"E, a distance of 84.10
672 feet, to an iron rod; thence S41°24'22"E, a distance
673 of 210.47 feet, to an iron rod; thence S38°52'45"E, a
674 distance of 174.40 feet, to an iron rod; thence
675 S33°54'38"E, a distance of 212.94 feet, to an iron
676 rod; thence S37°40'21"E, a distance of 119.90 feet, to
677 an iron rod; thence S63°38'27"E, a distance of 397.23
678 feet, to an iron rod; thence S54°42'23"E, a distance
679 of 137.02 feet, to an iron rod; thence S66°28'00"E, a
680 distance of 72.13 feet, to an iron rod; thence
681 S74°03'50"E, a distance of 526.89 feet, to an iron
682 rod; thence S65°07'14"E, a distance of 169.50 feet, to
683 an iron rod; thence S56°11'35"E, a distance of 261.82
684 feet, to an iron rod; thence S62°05'45"E, a distance
685 of 141.63 feet, to an iron rod; thence S82°38'30"E, a
686 distance of 227.95 feet, to an iron rod; thence
687 S64°34'06"E, a distance of 134.09 feet, to an iron
688 rod; thence S44°50'15"E, a distance of 117.21 feet, to
689 an iron rod; thence S36°18'31"E, a distance of 242.72
690 feet, to an iron rod; thence S49°43'39"E, a distance
691 of 178.02 feet, to an iron rod; thence S45°48'41"E, a
692 distance of 179.26 feet, to an iron rod; thence
693 S49°49'20"E, a distance of 214.19 feet, to an iron

694 rod; thence S41°48'48"E, a distance of 222.20 feet, to
 695 an iron rod; thence S48°35'30"E, a distance of 200.25
 696 feet, to an iron rod; thence S61°25'40"E, a distance
 697 of 428.09 feet, to an iron rod; thence S63°06'44"E, a
 698 distance of 644.39 feet, to an iron rod; thence
 699 S62°46'04"E, a distance of 678.14 feet, to an iron
 700 rod; thence S62°43'50"E, a distance of 652.63 feet, to
 701 an iron rod; thence S53°36'34"E, a distance of 218.94
 702 feet, to an iron rod; thence S64°10'09"E, a distance
 703 of 726.09 feet, to an iron rod; thence S64°07'34"E, a
 704 distance of 634.55 feet, to an iron rod; thence
 705 S62°56'15"E, a distance of 752.40 feet, to an iron
 706 rod; thence S65°29'06"E, a distance of 118.42 feet, to
 707 an iron rod; thence S59°29'15"E, a distance of 116.71
 708 feet, to an iron rod; thence S41°56'01"E, a distance
 709 of 88.47 feet, to an iron rod; thence S39°21'46"E, a
 710 distance of 287.92 feet, to an iron rod; thence
 711 S39°13'55"E, a distance of 321.23 feet, to an iron
 712 rod; thence S39°37'39"E, a distance of 318.13 feet, to
 713 an iron rod; thence S51°26'09"E, a distance of 73.03
 714 feet, to an iron rod; thence S75°43'21"E, a distance
 715 of 132.64 feet, to an iron rod; thence S81°00'26"E, a
 716 distance of 449.69 feet, to an iron rod; thence
 717 S61°25'12"E, a distance of 181.24 feet, to an iron
 718 rod; thence S76°11'38"E, a distance of 79.34 feet, to
 719 an iron rod; thence N83°23'17"E, a distance of 57.02
 720 feet, to an iron rod; thence N57°28'51"E, a distance
 721 of 65.75 feet, to an iron rod; thence N48°12'37"E, a

722 distance of 218.65 feet, to an iron rod; thence
 723 S71°43'37"E, a distance of 109.38 feet, to an iron
 724 rod; thence S55°14'02"E, a distance of 91.32 feet, to
 725 an iron rod; thence S38°01'21"E, a distance of 56.46
 726 feet, to an iron rod; thence S03°46'11"E, a distance
 727 of 62.49 feet, to an iron rod; thence S00°46'56"W, a
 728 distance of 262.22 feet, to an iron rod; thence
 729 S13°01'47"E, a distance of 243.27 feet, to an iron
 730 rod; thence S16°57'33"E, a distance of 140.72 feet, to
 731 an iron rod on the South line of the Southeast one-
 732 quarter of Section 33, Township 26 South, Range 36
 733 East; thence N88°28'46"E along the South line of said
 734 Section 33, 1212.95 feet to Southwest Corner of
 735 Section 34, Township 26 South, Range 36 East; thence
 736 N89°06'05"E along the South line of said Section 34,
 737 4798.14 feet to a point on the West Right-of-Way line
 738 of Interstate 95 (Circuit Court Book 53, Pages 359-
 739 363, Public Records of Brevard County Florida), thence
 740 N00°03'59"W, along said Right-of-Way 2480.30 feet;
 741 thence N00°28'45"W, 328.41 feet, to a point on the
 742 South Boundary line of Nail Farms (Deed Book 63, Page
 743 155, Public Records of Brevard County, Florida);
 744 thence S78°21'10"W along said South Line, 303.63 feet;
 745 thence N00°38'50"W, 554.40 feet; thence N89°21'11"E,
 746 290.53 feet, to a point on the said West Right-of-Way
 747 line of Interstate 95 and a non-tangent intersection
 748 with a curve to the left; Thence along said Right-of-
 749 Way line and the arc of said curve, (said curve being

750 concave to the West and having a radius of 22800.32
751 feet; a radial bearing of S87°51'38"W, a delta angle
752 of 12°22'37", a chord distance of 4915.73 feet; and a
753 chord bearing of N08°19'41"W) a distance of 4925.30
754 feet to the end of said curve; thence N14°30'59"W,
755 4457.16 feet; thence S75°29'01"W, 200.00 feet; thence
756 N14°30'59"W, 950.00 feet; thence N75°29'01"E, 200.00
757 feet; thence N14°30'59"W, 4932.58 feet to the
758 Southeast corner of the Plat of Viera Central PUD,
759 Tract 12, Unit 1, Parcels 1-3, Phase 3 (Plat Book 44
760 Pages 52-54, Public Records of Brevard County,
761 Florida); thence S61°38'33"W along the South line of
762 said Plat, 86.02 feet to a non-tangent intersection
763 with a curve to the left; Thence along the arc of said
764 curve, (said curve being concave to the West and
765 having a radius of 750.00 feet; a radial bearing of
766 S61°38'33"W, a delta angle of 33°08'08", a chord
767 distance of 427.72 feet; and a chord bearing of
768 N44°55'31"W) a distance of 433.74 feet to the end of
769 said curve and a point on the East line of a parcel of
770 land described in Official Records Book 4568, Pages
771 518-522, Public Records of Brevard County, Florida;
772 thence S14°30'59"E along the East line of said parcel,
773 253.23 feet; thence S75°13'39"W, 717.10 feet; thence
774 N14°17'52"W, 287.62 feet to the beginning of a curve
775 to the right; Thence along the arc of said curve,
776 (said curve being curved concave to the East and
777 having a radius of 50.00 feet; a delta angle of

778 39°18'18", a chord distance of 33.63 feet; and a chord
779 bearing of N05°21'17"E) a distance of 34.30 feet to
780 the beginning of a reverse curve to the left; Thence
781 along the arc of said curve, (said curve being curved
782 concave to the West and having a radius of 195.00
783 feet; a delta angle of 39°31'10", a chord distance of
784 131.85 feet, and a chord bearing of N05°14'51"E) a
785 distance of 134.50 feet to the Southeast corner of the
786 Plat of Viera Central PUD, Tract 12, Unit 1, Parcels
787 1-3, Phase 5 (Plat Book 45, Page 22, Public Records of
788 Brevard County, Florida) and a non-tangent
789 intersection with a curve to the left; Thence along
790 the South line of said Plat and the arc of said curve,
791 (said curve being concave to the Southeast and having
792 a radius of 750.00 feet; a radial bearing of
793 S25°55'03"E, a delta angle of 47°24'20", a chord
794 distance of 602.99 feet; and a chord bearing of
795 S40°22'47"W) a distance of 620.54 feet to the end of
796 said curve; thence S76°30'35"W, 326.62 feet to the
797 Southwest corner of said plat and a point on the East
798 line of the Plat of Trafford West (Plat Book 51, Page
799 54, Public Records of Brevard County, Florida) and a
800 non-tangent intersection with a curve to the right;
801 Thence along the East line of said plat and arc of
802 said curve, (said curve being concave to the West and
803 having a radius of 3025.00 feet; a delta angle of
804 01°51'26", a chord distance of 98.06 feet; and a chord
805 bearing of S12°33'47"E) a distance of 98.06 feet to a

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806 non-tangent intersection with the Southerly boundary
 807 of said plat; thence along said Southerly boundary the
 808 following 5 courses and distances:
 809 1) S89°08'33"W, 217.69 feet;
 810 2) S35°10'57"W, 136.27 feet;
 811 3) S00°51'27"E, 242.81 feet;
 812 4) S89°08'33"W, 725.22 feet;
 813 5) N00°51'27"W, 898.20 feet to the Northwest corner
 814 of Tract A of said Trafford West, and a point on the
 815 South Right-of-Way line of Trafford Drive; thence
 816 S89°08'33"W along said Right-of-Way line of Trafford
 817 Drive, 50.00 feet to the Southwest corner of Trafford
 818 Drive; thence N00°51'27"W along the West line of
 819 Trafford Drive, 100.00 feet to the Northwest corner of
 820 Trafford Drive; thence N89°08'33"E along the North
 821 Right-of-Way line of Trafford Drive, 70.79 feet to the
 822 Southwest corner of that certain parcel of land
 823 described in Official Records Book 4939, Page 1184;
 824 thence N00°51'24"W, along the West line of said
 825 parcel, 401.50 feet to the Northwest corner of said
 826 parcel; thence N89°08'33"E, along the North line of
 827 said Parcel, 590.76 feet to the Northeast corner of
 828 said parcel and a point on the West Right-of-Way line
 829 of Lake Andrew Drive (150' Right-of Way, Tract G-1,
 830 Plat of Viera Central PUD, Tract 12, Unit 1, Parcels
 831 1-3, Phase 4, Plat Book 44, Pages 91-92); thence
 832 N31°59'26"W along said West Right-of-Way, 1061.84 feet
 833 to the beginning of a curve to the right; Thence along

834 the arc of said curve, (said curve being concave to
835 the Northeast and having a radius of 7025.00 feet; a
836 delta angle of 10°02'20", a chord distance of 242.21
837 feet, and a chord bearing of N26°58'16"W) a distance
838 of 363.57 feet to the end of said curve; thence
839 S69°25'46"W, 700.00 feet; thence N20°34'14"W, 100.00
840 feet; thence S69°25'46"W, 208.37 feet; thence
841 S89°08'33"W, 566.39 feet; thence S44°08'33"W, 1022.48
842 feet; thence S89°08'33"W, 150.00 feet; thence
843 N00°51'27"W, 318.85 feet; thence S89°08'33"W, 40.00
844 feet; thence N00°51'27"W, 40.00 feet; thence
845 S89°08'33"W, 1293.68 feet; thence N00°51'27"W, 1059.47
846 feet; thence S89°08'33"W, 150.00 feet; thence
847 S00°51'27"E, 438.26 feet; thence S89°08'33"W, 1552.65
848 feet; thence N00°35'21"E, 849.03 feet to a point on
849 the South Right-of Way line of Wickham Road (Plat of
850 Wickham Road Extension, Plat Book 50, Page 10, Public
851 Records of Brevard County, Florida); thence
852 S89°08'33"W along the South line of said plat, 2225.96
853 feet to the Southwest corner of said Plat; thence
854 N00°51'27"W along the West line of said plat, 150.00
855 feet to the Northwest corner of said plat of Wickham
856 Road Extension, and a point on the South line of the
857 Plat of Heritage Isle - Phase 1 (Plat Book 50, Pages
858 61-66, Public Records of Brevard County, Florida);
859 thence S89°08'33"W along the South line of said plat
860 of Heritage Isle - Phase 1, 1772.10 feet to a point on
861 the West line of the Viera Development of Regional

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862 Impact (DRI) (as described in the BREVARD COUNTY
 863 RESOLUTION 01-391, Public Records of Brevard County,
 864 Florida) and the West line of Section 8, Township 26
 865 South, Range 36 East; thence N00°35'22"W along the
 866 West line of said Viera DRI and Section 8, 5227.90
 867 feet to the Southwest Corner of Section 5, Township 26
 868 South, Range 36 East; thence N00°33'35"W along the
 869 West line of said Section 5, 5290.28 feet to the
 870 Southwest corner of Section 32, Township 25 South,
 871 Range 36 East thence N00°31'18"E along the West line
 872 of said Section 32, 4667.92 feet; thence N66°33'30"E,
 873 1990.78 feet to the beginning of a curve to the left;
 874 Thence along the arc of said curve, (said curve being
 875 curved concave to the Northwest and having a radius of
 876 2988.25 feet; a delta angle of 28°53'46", a chord
 877 distance of 1491.15 feet; , and a chord bearing of
 878 N52°06'37"E) a distance of 1507.07 feet to the end of
 879 said curve and an intersection with a non-tangent
 880 line; thence N26°25'15"W, along said non-tangent line,
 881 1508.04 feet; thence N00°33'05"W, 470.00 feet; thence
 882 N45°39'16"W, 1200.05 feet; thence S89°26'55"W, 150.00
 883 feet; thence N45°51'06"W, 274.34 feet; thence
 884 N00°33'05"W, 1456.41 feet to a point on the North line
 885 of Section 29, Township 25 South, Range 36 East;
 886 thence S89°20'44"W along the North line of said
 887 Section 29, 1153.36 feet to the Northeast corner of
 888 Section 30, Township 25 South, Range 36 East; Thence

889 S89°23'19"W along the North line of said Section 30,
890 2789.62 feet to the POINT OF BEGINNING.
891 Subject to Easements, Restrictions, Reservations and
892 Rights-of-way of record.
893 LESS AND EXCEPT those certain parcels of land
894 described in Official Records Book 2951, Page 1574;
895 Official Records Book 3412, Page 4823; Official
896 Records Book 4203, Page 2463; Official Records Book
897 5262, Page 3838; AND LESS AND EXCEPT that certain
898 parcel of land described in Civil Action Documents 96-
899 16731-CA-F; all being recorded in the Public Records
900 of Brevard County, Florida.
901 TOGETHER WITH that certain parcel described in
902 Official Records Book 5262, Page 3836, Public Records
903 of Brevard County, Florida
904 Section 5. Board of supervisors; members and meetings;
905 organization; powers; duties; terms of office; related election
906 requirements.--
907 (1) The board of the district shall exercise the powers
908 granted to the district pursuant to this act. The board shall
909 consist of five members, each of whom shall hold office for a
910 term of 4 years, as provided in this section, except as
911 otherwise provided herein for initial board members, and until a
912 successor is chosen and qualified. The members of the board must
913 be residents of the state and citizens of the United States.
914 (2) (a) Within 90 days following the effective date of the
915 law establishing the district, there shall be held a meeting of
916 the landowners of the district for the purpose of electing five

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917 supervisors for the district. Notice of the landowners' meeting
 918 shall be published once a week for 2 consecutive weeks in a
 919 newspaper which is in general circulation in the area of the
 920 district, the last day of such publication to be not fewer than
 921 14 days or more than 28 days before the date of the election.
 922 The landowners, when assembled at such meeting, shall organize
 923 by electing a chair, who shall conduct the meeting. The chair
 924 may be any person present at the meeting. If the chair is a
 925 landowner or proxy holder of a landowner, he or she may nominate
 926 candidates and make and second motions. The landowners present
 927 at the meeting, in person or by proxy, shall constitute a
 928 quorum. At any landowners' meeting, 50 percent of the district
 929 acreage shall not be required to constitute a quorum, and each
 930 governing board member elected by landowners shall be elected by
 931 a majority of the acreage represented either by owner or proxy
 932 present and voting at said meeting.

933 **(b)** At such meeting, each landowner shall be entitled to
 934 cast one vote per acre of land owned by him or her and located
 935 within the district for each person to be elected. A landowner
 936 may vote in person or by proxy in writing. Each proxy must be
 937 signed by one of the legal owners of the property for which the
 938 vote is cast and must contain the typed or printed name of the
 939 individual who signed the proxy; the street address, legal
 940 description of the property, or tax parcel identification
 941 number; and the number of authorized votes. If the proxy
 942 authorizes more than one vote, each property must be listed and
 943 the number of acres of each property must be included. The
 944 signature on a proxy need not be notarized. A fraction of an

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945 acre shall be treated as 1 acre, entitling the landowner to one
946 vote with respect thereto. The two candidates receiving the
947 highest number of votes shall be elected for a term expiring
948 November 18, 2008, and the three candidates receiving the next
949 largest number of votes shall be elected for a term expiring
950 November 7, 2006, with the term of office for each successful
951 candidate commencing upon election. The members of the first
952 board elected by landowners shall serve their respective terms;
953 however, the next election of board members shall be held on the
954 first Tuesday after the first Monday in November 2006.
955 Thereafter, there shall be an election by landowners for the
956 district every 2 years on the first Tuesday after the first
957 Monday in November, which shall be noticed pursuant to paragraph
958 (a). The second and subsequent landowners' election shall be
959 announced at a public meeting of the board at least 90 days
960 prior to the date of the landowners' meeting and shall also be
961 noticed pursuant to paragraph (a). Instructions on how all
962 landowners may participate in the election, along with sample
963 proxies, shall be provided during the board meeting that
964 announces the landowners' meeting. Each supervisor elected in or
965 after November 2006 shall serve a 4-year term, unless the
966 supervisor is elected to complete a term created by a vacancy in
967 the office.

968 (3)(a)1. The board may not exercise the ad valorem taxing
969 power or the general obligation bond power authorized by this
970 act until such time as all members of the board are qualified
971 electors who are elected by qualified electors of the district.

972 2.a. Regardless of whether the district has proposed to
973 levy ad valorem taxes or issue general obligation bonds, board
974 members shall begin being elected by qualified electors of the
975 district as the district becomes populated with qualified
976 electors. The transition shall occur such that the composition
977 of the board, after the first general election following a
978 trigger as set forth below, shall be as follows:

979 (I) Five years following the creation of the district, one
980 governing board member shall be a person who was elected by the
981 qualified electors and four governing board members shall be
982 persons who were elected by the landowners.

983 (II) Ten years following the creation of the district, two
984 governing board members shall be persons who were elected by the
985 qualified electors and three governing board members shall be
986 persons elected by the landowners.

987 (III) When the district is populated by 60 percent of the
988 projected total qualified electors, three governing board
989 members shall be persons who were elected by the qualified
990 electors and two governing members shall be persons who were
991 elected by the landowners.

992 (IV) Three years following the trigger in sub-sub-
993 paragraph (III), four governing board members shall be
994 persons who were elected by the qualified electors and one
995 governing board member shall be a person who was elected by the
996 landowners.

997 (V) Five years following the trigger in subparagraph
998 (III), all five governing board members shall be persons who
999 were elected by the qualified electors.

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1000
1001 For purposes of this subparagraph, "projected total qualified
1002 electors" shall mean and refer to the product of: (the total
1003 number of single-family and multi-family units approved within
1004 the district by a development order issued by Brevard County and
1005 in effect in the tenth year following creation of the district)
1006 x (the average number of persons residing within a household
1007 located within Brevard County based on the 2010 U.S. Census) x
1008 (the percentage of Brevard County's general population
1009 registered to vote as reported by the Brevard County Supervisor
1010 of Elections as of the general election occurring November
1011 2014).
1012 Nothing in this sub-subparagraph is intended to require an
1013 election prior to the expiration of an existing board member's
1014 term.
1015 b. On or before June 1, 2016, the board shall determine
1016 the number of projected qualified electors in the district as of
1017 the immediately preceding April 15. Additionally, on or before
1018 June 1, 2016, and each year thereafter until the trigger in
1019 subparagraph (III) is met, the board shall determine the actual
1020 number of qualified electors in the district as of the
1021 immediately preceding April 15. The board shall use and rely
1022 upon the official records maintained by the supervisor of
1023 elections and property appraiser or tax collector in each county
1024 in making this determination. Such determination shall be made
1025 at a properly noticed meeting of the board and shall become a
1026 part of the official minutes of the district.

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c. All governing board members elected by qualified electors shall be elected at large at an election occurring as provided in subsection (2) and this subsection.

d. Once the district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district shall be held at the general election in November, except as provided in sub-subparagraph e. The board shall adopt a resolution if necessary to this requirement. The transition process described herein is intended to be in lieu of the process set forth in section 189.4051, Florida Statutes.

e. If, during the term of office, a vacancy occurs, the remainder of the unexpired term shall be filled as follows:

(I) If the vacancy arises with respect to a supervisor that was elected by landowners, the vacancy shall be filled by a supervisor elected by the landowners; and

(II) If the vacancy arises with respect to a supervisor that was elected by the qualified electors of the district, the vacancy shall be filled by a supervisor elected by the qualified electors of the district, in which case the district shall be responsible for paying the expenses associated with any special election that is required to be conducted.

(b) Elections of board members by qualified electors held pursuant to this subsection shall be nonpartisan and shall be conducted in the manner prescribed by law for holding general elections. Board members shall assume the office on the second Tuesday following their election.

1054 (c) Candidates seeking election to office by qualified
1055 electors under this subsection shall conduct their campaigns in
1056 accordance with the provisions of chapter 106, Florida Statutes,
1057 and shall file qualifying papers and qualify for individual
1058 seats in accordance with section 99.061, Florida Statutes.
1059 Candidates shall pay a qualifying fee, which shall consist of a
1060 filing fee and an election assessment or, as an alternative,
1061 shall file a petition signed by not less than 1 percent of the
1062 registered voters of the district, and take the oath required in
1063 section 99.021, Florida Statutes, with the supervisor of
1064 elections in the county affected by such candidacy. The amount
1065 of the filing fee is 3 percent of \$4,800; however, if the
1066 electors have provided for compensation, the amount of the
1067 filing fee is 3 percent of the maximum annual compensation so
1068 provided. The amount of the election assessment is 1 percent of
1069 \$4,800; however, if the electors have provided for compensation,
1070 the amount of the election assessment is 1 percent of the
1071 maximum annual compensation so provided. The filing fee and
1072 election assessment shall be distributed as provided in section
1073 105.031(3), Florida Statutes.

1074 (d) The supervisors of elections shall appoint the
1075 inspectors and clerks of elections, prepare and furnish the
1076 ballots, designate polling places, and canvass the returns of
1077 the election of board members by qualified electors. The county
1078 canvassing boards shall declare and certify the results of the
1079 election.

1080 (4) Members of the board, regardless of how elected, shall
1081 be public officers, shall be known as supervisors, and, upon

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entering into office, shall take and subscribe to the oath of
office as prescribed by section 876.05, Florida Statutes.
Members of the board shall be subject to ethics and conflict of
interest laws of the state that apply to all local public
officers. They shall hold office for the terms for which they
were elected or appointed and until their successors are chosen
and qualified.

(5) Any elected board member may be removed by the
Governor for malfeasance, misfeasance, dishonesty, incompetency,
or failure to perform the duties imposed upon him or her by this
act, and any vacancies that may occur in such office for such
reasons shall be filled by the Governor as soon as practicable.

(6) A majority of the members of the board constitutes a
quorum for the purposes of conducting its business and
exercising its powers and for all other purposes. Action taken
by the district shall be upon a vote of a majority of the
members present unless general law or a rule of the district
requires a greater number.

(7) As soon as practicable after each election or
appointment, the board shall organize by electing one of its
members as chair and by electing a secretary, who need not be a
member of the board, and such other officers as the board may
deem necessary.

(8) The board shall keep a permanent record book entitled
"Record of Proceedings of Viera Stewardship District," in which
shall be recorded minutes of all meetings, resolutions,
proceedings, certificates, bonds given by all employees, and any
and all corporate acts. The record book and all other district

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1110 records shall at reasonable times be opened to inspection in the
1111 same manner as state, county, and municipal records pursuant to
1112 chapter 119, Florida Statutes. The record book shall be kept at
1113 the office or other regular place of business maintained by the
1114 board in a designated location in Brevard County.

1115 (9) Each supervisor shall be entitled to receive for his
1116 or her services an amount not to exceed \$200 per board meeting,
1117 not to exceed \$4,800 per year per supervisor, or an amount
1118 established by the electors at a referendum. In addition, each
1119 supervisor shall receive travel and per diem expenses as set
1120 forth in section 112.061, Florida Statutes.

1121 (10) All meetings of the board shall be open to the public
1122 and governed by the provisions of chapter 286, Florida Statutes.

1123 Section 6. Board of supervisors; general duties.--

1124 (1) DISTRICT MANAGER AND EMPLOYEES.--The board shall
1125 employ and fix the compensation of a district manager, who shall
1126 have charge and supervision of the works of the district and
1127 shall be responsible for preserving and maintaining any
1128 improvement or facility constructed or erected pursuant to the
1129 provisions of this act, for maintaining and operating the
1130 equipment owned by the district, and for performing such other
1131 duties as may be prescribed by the board. It shall not be a
1132 conflict of interest under chapter 112, Florida Statutes, for a
1133 board member, the district manager, or another employee of the
1134 district to be a stockholder, officer, or employee of a
1135 landowner. The district manager may hire or otherwise employ and
1136 terminate the employment of such other persons, including,
1137 without limitation, professional, supervisory, and clerical

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employees, as may be necessary and authorized by the board. The compensation and other conditions of employment of the officers and employees of the district shall be as provided by the board.

(2) TREASURER.--The board shall designate a person who is a resident of the state as treasurer of the district, who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order of or pursuant to a resolution of the board by warrant or check countersigned by the treasurer and by such other person as may be authorized by the board. The board may give the treasurer such other or additional powers and duties as the board may deem appropriate and may fix his or her compensation. The board may require the treasurer to give a bond in such amount, on such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The financial records of the board shall be audited by an independent certified public accountant at least once a year.

(3) PUBLIC DEPOSITORY.--The board is authorized to select as a depository for its funds any qualified public depository as defined in section 280.02, Florida Statutes, which meets all the requirements of chapter 280, Florida Statutes, and has been designated by the treasurer as a qualified public depository upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the board may deem just and reasonable.

(4) BUDGET; REPORTS AND REVIEWS.--

1164 (a) The district shall provide financial reports in such
1165 form and such manner as prescribed pursuant to this act and
1166 chapter 218, Florida Statutes, as amended from time to time.

1167 (b) On or before July 15 of each year, the district
1168 manager shall prepare a proposed budget for the ensuing fiscal
1169 year to be submitted to the board for board approval. The
1170 proposed budget shall include at the direction of the board an
1171 estimate of all necessary expenditures of the district for the
1172 ensuing fiscal year and an estimate of income to the district
1173 from the taxes and assessments provided in this act. The board
1174 shall consider the proposed budget item by item and may either
1175 approve the budget as proposed by the district manager or modify
1176 the same in part or in whole. The board shall indicate its
1177 approval of the budget by resolution, which resolution shall
1178 provide for a hearing on the budget as approved. Notice of the
1179 hearing on the budget shall be published in a newspaper of
1180 general circulation in the area of the district once a week for
1181 2 consecutive weeks, except that the first publication shall be
1182 not fewer than 15 days prior to the date of the hearing. The
1183 notice shall further contain a designation of the day, time, and
1184 place of the public hearing. At the time and place designated in
1185 the notice, the board shall hear all objections to the budget as
1186 proposed and may make such changes as the board deems necessary.
1187 At the conclusion of the budget hearing, the board shall, by
1188 resolution, adopt the budget as finally approved by the board.
1189 The budget shall be adopted prior to October 1 of each year.

1190 (c) At least 60 days prior to adoption, the Board of
1191 Supervisors of the district shall submit to the Brevard County

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1192 Board of County Commissioners, for purposes of disclosure and
 1193 information only, the proposed annual budget for the ensuing
 1194 fiscal year, and the Board of County Commissioners may submit
 1195 written comments to the Board of Supervisors solely for the
 1196 assistance and information of the Board of Supervisors of the
 1197 district in adopting its annual district budget.

1198 (d) The Board of Supervisors of the district shall submit
 1199 annually, to the Board of County Commissioners of Brevard
 1200 County, its district public facilities report under section
 1201 189.415(2), Florida Statutes, or the most recent Development of
 1202 Regional Impact report required by section 380.06(15) and (18),
 1203 Florida Statutes, to the extent the report provides the
 1204 information required by section 189.415(2), Florida Statutes,
 1205 which reports the board of county commissioners shall use and
 1206 rely upon in the preparation or revision of its comprehensive
 1207 plan, specifically under section 189.415(6), Florida Statutes.

1208 (5) DISCLOSURE OF PUBLIC FINANCING.--The district shall
 1209 take affirmative steps to provide for the full disclosure of
 1210 information relating to the public financing and maintenance of
 1211 improvements to real property undertaken by the district. Such
 1212 information shall be made available to all existing residents
 1213 and all prospective residents of the district. The district
 1214 shall furnish each developer of a residential development within
 1215 the district with sufficient copies of that information to
 1216 provide each prospective initial purchaser of property in that
 1217 development with a copy; and any developer of a residential
 1218 development within the district, when required by law to provide
 1219 a public offering statement, shall include a copy of such

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1220 information relating to the public financing and maintenance of
 1221 improvements in the public offering statement. The Division of
 1222 Florida Land Sales, Condominiums, and Mobile Homes of the
 1223 Department of Business and Professional Regulation shall ensure
 1224 that disclosures made by developers pursuant to chapter 498,
 1225 Florida Statutes, meet the requirements of section 190.009(1),
 1226 Florida Statutes.

1227 (6) GENERAL POWERS.--The district shall have, and the
 1228 board may exercise, the following general powers, together with
 1229 all other general powers authorized under chapters 189 and 190:

1230 (a) To sue and be sued in the name of the district; to
 1231 adopt and use a seal and authorize the use of a facsimile
 1232 thereof; to acquire, by purchase, gift, devise, or otherwise,
 1233 and to own and dispose of, real and personal property, or any
 1234 estate therein; and to make and execute contracts and other
 1235 instruments necessary or convenient to the exercise of its
 1236 powers.

1237 (b) To apply for coverage of its employees under the
 1238 Florida Retirement System in the same manner as if such
 1239 employees were state employees, subject to necessary action by
 1240 the district to pay employer contributions into the Florida
 1241 Retirement System Trust Fund.

1242 (c) To contract for the services of consultants to perform
 1243 planning, engineering, legal, or other appropriate services of a
 1244 professional nature. Such contracts shall be subject to public
 1245 bidding or competitive negotiation requirements as set forth in
 1246 general law applicable to independent special districts.

1247 (d) To borrow money and accept gifts; to apply for and use
1248 grants or loans of money or other property from the United
1249 States, the state, a unit of local government, or any person for
1250 any district purposes and enter into agreements required in
1251 connection therewith; and to hold, use, and dispose of such
1252 moneys or property for any district purposes in accordance with
1253 the terms of the gift, grant, loan, or agreement relating
1254 thereto.

1255 (e) To adopt and enforce rules and orders pursuant to the
1256 provisions of chapter 120, Florida Statutes, prescribing powers,
1257 duties, and functions of the officers of the district; the
1258 conduct of the business of the district; the maintenance of
1259 records; and the form of certificates evidencing tax liens and
1260 all other documents and records of the district. The board may
1261 also adopt and enforce administrative rules with respect to any
1262 of the projects of the district and define the area to be
1263 included therein. The board may also adopt resolutions which may
1264 be necessary for the conduct of district business.

1265 (f) To maintain an office at such place or places as the
1266 board of supervisors designates in Brevard County, and within
1267 the district when facilities are available.

1268 (g) To hold, control, and acquire by donation, purchase,
1269 or condemnation, or dispose of, any public easements,
1270 dedications to public use, platted reservations for public
1271 purposes, or any reservations for those purposes authorized by
1272 this act and to make use of such easements, dedications, or
1273 reservations for the purposes authorized by this act.

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1274 (h) To lease as lessor or lessee to or from any person,
 1275 firm, corporation, association, or body, public or private, any
 1276 projects of the type that the district is authorized to
 1277 undertake and facilities or property of any nature for the use
 1278 of the district to carry out the purposes authorized by this
 1279 act.

1280 (i) To borrow money and issue bonds, certificates,
 1281 warrants, notes, or other evidence of indebtedness as
 1282 hereinafter provided; to levy such taxes and assessments as may
 1283 be authorized; and to charge, collect, and enforce fees and
 1284 other user charges.

1285 (j) To raise, by user charges or fees authorized by
 1286 resolution of the board, amounts of money which are necessary
 1287 for the conduct of district activities and services and the
 1288 maintenance of district facilities and to enforce their receipt
 1289 and collection in the manner prescribed by resolution not
 1290 inconsistent with law.

1291 (k) To exercise within the district, or beyond the
 1292 district with prior approval by vote of a resolution of the
 1293 governing body of Brevard County if the taking will occur in an
 1294 unincorporated area in that county, the right and power of
 1295 eminent domain, pursuant to the provisions of chapters 73 and
 1296 74, Florida Statutes, over any property within the state, except
 1297 municipal, county, state, and federal property, for the uses and
 1298 purpose of the district relating solely to water, sewer,
 1299 district roads, and water management and control, specifically
 1300 including, without limitation, the power for the taking of

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easements for the drainage of the land of one person over and through the land of another.

(l) To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(m) To assess and to impose upon lands in the district ad valorem taxes as provided by this act.

(n) If and when authorized by general law to determine, order, levy, impose, collect, and enforce maintenance taxes.

(o) To determine, order, levy, impose, collect, and enforce assessments pursuant to this act and chapter 170, Florida Statutes, as amended from time to time, pursuant to authority granted in section 197.3631, Florida Statutes, or pursuant to other provisions of general law now or hereinafter enacted which provide or authorize a supplemental means to order, levy, impose, or collect special assessments. Such special assessments, in the discretion of the district, may be collected and enforced pursuant to the provisions of sections 197.3632 and 197.3635, Florida Statutes, and chapters 170 and 173, Florida Statutes, as they may be amended from time to time, or as provided by this act, or by other means authorized by general law now or hereinafter enacted.

(p) To exercise such special powers and other express powers as may be authorized and granted by this act in the charter of the district, including powers as provided in any interlocal agreement entered into pursuant to chapter 163, Florida Statutes, or which shall be required or permitted to be

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1329 undertaken by the district pursuant to any development order or
1330 development of regional impact, including any interlocal service
1331 agreement with Brevard County for proportionate, fair-share, or
1332 pipelining capital construction funding for any certain capital
1333 facilities or systems required of the developer pursuant to any
1334 applicable development order or agreement.

1335 (q) To exercise all of the powers necessary, convenient,
1336 incidental, or proper in connection with any other powers or
1337 duties or the special purpose of the district authorized by this
1338 act.

1339
1340 The provisions of this subsection shall be construed liberally
1341 in order to carry out effectively the specialized purpose of
1342 this act.

1343 (7) SPECIAL POWERS.--The district shall have, and the
1344 board may exercise, the following special powers to implement
1345 its lawful and special purpose and to provide, pursuant to that
1346 purpose, systems, facilities, services, improvements, projects,
1347 works, and infrastructure, each of which constitutes a lawful
1348 public purpose when exercised pursuant to this charter, subject
1349 to, and not inconsistent with, the regulatory jurisdiction and
1350 permitting authority of all other applicable governmental
1351 bodies, agencies, and any special districts having authority
1352 with respect to any area included therein, and to plan,
1353 establish, acquire, construct or reconstruct, enlarge or extend,
1354 equip, operate, finance, fund, and maintain improvements,
1355 systems, facilities, services, works, projects, and
1356 infrastructure. Any or all of the following special powers are

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granted by this act in order to implement the special purpose of the district:

(a) To provide water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges and to construct, acquire and operate any dam, work, appurtenant work, impoundment, or reservoir and any connecting, intercepting or outlet mains and pipes in, along or under any street, alley, highway or other public place or ways; including, but not limited to, acquiring, operating, maintaining, repairing and improving water management and control facilities necessary for the collection, storage control, development, utilization and distribution of nonpotable waters for irrigation purposes.

(b) To provide water systems, sewer systems, and wastewater management, reclamation and reuse, or any combination thereof, and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.

1. The district may not purchase or sell a water, sewer, or wastewater reuse utility that provides service to the public for compensation, or enter into a wastewater facility privatization contract for a wastewater facility, until the governing body of the district has held a public hearing on the purchase, sale, or wastewater facility privatization contract and made a determination that the purchase, sale, or wastewater

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1385 facility privatization contract is in the public interest. This
1386 limitation is not applicable to an irrigation water utility
1387 provided pursuant to paragraph (a).

1388 2. In determining if the purchase, sale, or wastewater
1389 facility privatization contract is in the public interest, the
1390 district shall consider, at a minimum, the following:

1391 a. The most recent available income and expense statement
1392 for the utility.

1393 b. The most recent available balance sheet for the
1394 utility, listing assets and liabilities and clearly showing the
1395 amount of contributions in aid of construction and the
1396 accumulated depreciation thereon.

1397 c. A statement of the existing rate base of the utility
1398 for regulatory purposes.

1399 d. The physical condition of the utility facilities being
1400 purchased or sold or subject to a wastewater facility
1401 privatization contract.

1402 e. The reasonableness of the purchase, sale, or wastewater
1403 facility privatization contract price and terms.

1404 f. The impacts of the purchase, sale, or wastewater
1405 facility privatization contract on utility customers, both
1406 positive and negative.

1407 g. Any additional investment required and the ability and
1408 willingness of the purchaser or the private firm under a
1409 wastewater facility privatization contract to make that
1410 investment, whether the purchaser is the district or the entity
1411 purchasing the utility from the district.

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h. In the case of a wastewater facility privatization contract, the terms and conditions on which the private firm will provide capital investment and financing or a combination thereof for contemplated capital replacements, additions, expansions, and repairs.

i. The alternatives to the purchase, sale, or wastewater facility privatization contract and the potential impact on utility customers if the purchase, sale, or wastewater facility privatization contract is not made.

j. The ability of the purchaser or the private firm under a wastewater facility privatization contract to provide and maintain high-quality and cost-effective utility service, whether the purchaser is the district or the entity purchasing the utility from the district.

k. In the case of a wastewater facility privatization contract, the district shall give significant weight to the technical expertise and experience of the private firm in carrying out the obligations specified in the wastewater facility privatization contract.

l. All moneys paid by a private firm to a district pursuant to a wastewater facility privatization contract shall be used for the purpose of reducing or offsetting property taxes, wastewater service rates, or debt reduction or making infrastructure improvements or capital asset expenditures or other public purpose, provided, however, that nothing herein shall preclude the district from using all or part of the moneys for the purpose of the district's qualification for relief from the repayment of federal grant awards associated with the

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wastewater system as may be required by federal law or
regulation. The district shall prepare a statement showing that
the purchase, sale, or wastewater facility privatization
contract is in the public interest, including a summary of the
purchaser's or private firm's experience in water, sewer, or
wastewater reuse utility operation and a showing of financial
ability to provide the service, whether the purchaser or private
firm is the district or the entity purchasing the utility from
the district.

(c) To provide bridges or culverts that may be needed
across any drain, ditch, canal, floodway, holding basin,
excavation, public highway, tract, grade, fill, or cut and
roadways over levees and embankments, and to construct any and
all of such works and improvements across, through, or over any
public right-of way, highway, grade, fill, or cut.

(d) To provide public roads and related improvements equal
to or exceeding the specifications of Brevard County, including,
but not limited to transportation improvements necessary to
comply with conditions of development approval applicable to
lands within the district. This special power includes, but is
not limited to, roads, parkways, interchanges, bridges,
landscaping, hardscaping, irrigation, bicycle lanes, jogging
paths, street lighting, traffic signals, regulatory or
informational signage, road striping, underground conduit,
underground cable or fiber or wire installed to pursuant an
agreement with or tariff of a retail provider of services, and
all other related improvements and the elements of a functioning
modern road system in general or as related to the conditions of

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development approval for the lands within the district, together with transportation improvements and facilities that are freestanding or that may be related to any innovative strategic intermodal system of transportation pursuant to applicable federal, state, and local law and ordinance.

(e) To provide buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, and related signage.

(f) To provide investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district and who caused or contributed to the contamination.

(g) To provide conservation areas, mitigation areas, wilderness areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property, and to evaluate, acquire, enhance, manage, monitor and maintain conservation, mitigation, and preservation lands and wildlife habitat.

(h) Using its general and special powers as set forth in this act, to provide any other project within or without the boundaries of the district when the project is the subject of an agreement between the district and the Board of County Commissioners of Brevard County or with any other applicable public or private entity, or is approved or required by a development order pursuant to sections 380.06 or sections

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1495 380.061, Florida Statutes and is not inconsistent with the
1496 effective local comprehensive plan.

1497 (i) To provide parks and facilities for indoor and outdoor
1498 recreational, cultural, and educational uses, provided, however,
1499 that in no event shall the district finance or own a golf
1500 course..

1501 (j) To provide fire prevention and control, including fire
1502 stations, water mains and plugs, fire trucks, and other vehicles
1503 and equipment.

1504 (k) To provide school buildings and related structures,
1505 which may be leased, sold, or donated to the school district,
1506 for use in the educational system when authorized by the
1507 district school board.

1508 (l) To provide security, including, but not limited to,
1509 guardhouses, fences, and gates, electronic intrusion-detection
1510 systems, and patrol cars, when authorized by proper governmental
1511 agencies; however, the district may not exercise any powers of a
1512 law enforcement agency but may contract with the appropriate
1513 local general-purpose government agencies for an increased level
1514 of such services within the district boundaries. Notwithstanding
1515 any provision of general law, the district may operate
1516 guardhouses for the limited purpose of providing security for
1517 the residents of the district and which serve a predominate
1518 public, as opposed to private, purpose. Such guardhouses shall
1519 be operated by the district or any other unit of local
1520 government pursuant to procedures designed to serve such
1521 security purposes as set forth in rules adopted by the board,

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from time to time, following the procedures set forth in chapter 120, Florida Statutes.

(m) To provide control and elimination of mosquitoes and other arthropods of public health importance.

(n) To provide waste collection and disposal.

(o) To enter into impact fee credit agreements.

(p) To provide buildings and structures for district offices, maintenance facilities, meeting facilities, community centers, or any other project authorized or granted by this act.

(q) To establish and create, at noticed meetings, such governmental departments of the Board of Supervisors of the district, as well as committees, task forces, boards, or commissions, or other agencies under the supervision and control of the district, as from time to time the board may deem necessary or desirable in the performance of the acts or other things necessary to exercise the board's general or special powers to implement an innovative project to carry out the special purpose of the district as provided in this act and to delegate the exercise of its powers to such departments, boards, task forces, committees or other agencies and such administrative duties and other powers as the board may deem necessary or desirable but only if there is a set of expressed limitations for accountability, notice, and periodic written reporting to the board that shall retain the powers of the board.

(r) To adopt and enforce appropriate rules following the procedures of chapter 120, in connection with the provision of one or more services through its systems and facilities.

1550
 1551 The enumeration of special powers herein shall not be deemed
 1552 exclusive or restrictive but shall be deemed to incorporate
 1553 powers express or implied necessary or incident to carrying out
 1554 such enumerated special powers, including also the general
 1555 powers provided by this special act charter to the district to
 1556 implement its single purpose. Further, the provisions of this
 1557 subsection shall be construed liberally in order to carry out
 1558 effectively the special purpose of this district under this act.
 1559 The district may exercise its powers to provide facilities for
 1560 potable water, sewer, fire protection, mosquito control, waste
 1561 collection and waste disposal services only if such facilities
 1562 are to be dedicated to and operated by the county or a
 1563 municipality already providing the service or if such county or
 1564 municipality declines or is unable to provide the service at the
 1565 time the service becomes necessary. Nothing herein:
 1566 1. Shall prevent the district from dedicating
 1567 transportation or other facilities to the county or a
 1568 municipality;
 1569 2. Shall be construed to authorize the district to provide
 1570 or approve franchises for emergency medical ambulance services,
 1571 which authority is reserved to Brevard County under chapter 71-
 1572 556 Laws of Florida;
 1573 3. Is intended to authorize the imposition of impact fees
 1574 based upon alleged police powers or regulatory powers of the
 1575 district;
 1576 4. Is intended to limit the power of the county or a city
 1577 to provide such facilities and to require landowners to utilize

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1578 such facilities as a condition to development of lands within
1579 the district; or

1580 5. Is intended to prohibit the district from providing
1581 additional services beyond those offered by the county or a
1582 municipality.

1583 (8) ISSUANCE OF BOND ANTICIPATION NOTES.--In addition to
1584 the other powers provided for in this act, and not in limitation
1585 thereof, the district shall have the power, at any time and from
1586 time to time after the issuance of any bonds of the district
1587 shall have been authorized, to borrow money for the purposes for
1588 which such bonds are to be issued in anticipation of the receipt
1589 of the proceeds of the sale of such bonds and to issue bond
1590 anticipation notes in a principal sum not in excess of the
1591 authorized maximum amount of such bond issue. Such notes shall
1592 be in such denomination or denominations, bear interest at such
1593 rate as the board may determine not to exceed the maximum rate
1594 allowed by general law, mature at such time or times not later
1595 than 5 years from the date of issuance, and be in such form and
1596 executed in such manner as the board shall prescribe. Such notes
1597 may be sold at either public or private sale or, if such notes
1598 shall be renewal notes, may be exchanged for notes then
1599 outstanding on such terms as the board shall determine. Such
1600 notes shall be paid from the proceeds of such bonds when issued
1601 The board may, in its discretion, in lieu of retiring the notes
1602 by means of bonds, retire them by means of current revenues or
1603 from any taxes or assessments levied for the payment of such
1604 bonds, but, in such event, a like amount of the bonds authorized
1605 shall not be issued.

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1606 (9) BORROWING.--The district at any time may obtain loans,
1607 in such amount and on such terms and conditions as the board may
1608 approve, for the purpose of paying any of the expenses of the
1609 district or any costs incurred or that may be incurred in
1610 connection with any of the projects of the district, which loans
1611 shall bear interest as the board determines, not to exceed the
1612 maximum rate allowed by general law, and may be payable from and
1613 secured by a pledge of such funds, revenues, taxes, and
1614 assessments as the board may determine, subject, however, to the
1615 provisions contained in any proceeding under which bonds were
1616 theretofore issued and are then outstanding. For the purpose of
1617 defraying such costs and expenses, the district may issue
1618 negotiable notes, warrants, or other evidences of debt to be
1619 payable at such times and to bear such interest as the board may
1620 determine, not to exceed the maximum rate allowed by general
1621 law, and to be sold or discounted at such price or prices not
1622 less than 95 percent of par value and on such terms as the board
1623 may deem advisable. The board shall have the right to provide
1624 for the payment thereof by pledging the whole or any part of the
1625 funds, revenues, taxes, and assessments of the district. The
1626 approval of the electors residing in the district shall not be
1627 necessary except when required by the State Constitution.

1628 (10) BONDS.--

1629 (a) Sale of bonds.--Bonds may be sold in blocks or
1630 installments at different times, or an entire issue or series
1631 may be sold at one time. Bonds may be sold at public or private
1632 sale after such advertisement, if any, as the board may deem
1633 advisable but not in any event at less than 90 percent of the

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par value thereof, together with accrued interest thereon. Bonds
may be sold or exchanged for refunding bonds. Special assessment
and revenue bonds may be delivered by the district as payment of
the purchase price of any project or part thereof, or a
combination of projects or parts thereof, or as the purchase
price or exchange for any property, real, personal, or mixed,
including franchises or services rendered by any contractor,
engineer, or other person, all at one time or in blocks from
time to time, in such manner and upon such terms as the board in
its discretion shall determine. The price or prices for any
bonds sold, exchanged, or delivered may be:

1. The money paid for the bonds.

2. The principal amount, plus accrued interest to the date
of redemption or exchange, or outstanding obligations exchanged
for refunding bonds.

3. In the case of special assessment or revenue bonds, the
amount of any indebtedness to contractors or other persons paid
with such bonds, or the fair value of any properties exchanged
for the bonds, as determined by the board.

(b) Authorization and form of bonds.--Any general
obligation bonds, special assessment bonds, or revenue bonds may
be authorized by resolution or resolutions of the board which
shall be adopted by a majority of all the members thereof then
in office. Such resolution or resolutions may be adopted at the
same meeting at which they are introduced and need not be
published or posted. The board may, by resolution, authorize the
issuance of bonds and fix the aggregate amount of bonds to be
issued; the purpose or purposes for which the moneys derived

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1662 therefrom shall be expended, including, but not limited to,
1663 payment of costs as defined in section 2(2)(i); the rate or
1664 rates of interest, not to exceed the maximum rate allowed by
1665 general law; the denomination of the bonds; whether or not the
1666 bonds are to be issued in one or more series; the date or dates
1667 of maturity, which shall not exceed 40 years from their
1668 respective dates of issuance; the medium of payment; the place
1669 or places within or without the state at which payment shall be
1670 made; registration privileges; redemption terms and privileges,
1671 whether with or without premium; the manner of execution; the
1672 form of the bonds, including any interest coupons to be attached
1673 thereto; the manner of execution of bonds and coupons; and any
1674 and all other terms, covenants, and conditions thereof and the
1675 establishment of revenue or other funds. Such authorizing
1676 resolution or resolutions may further provide for the contracts
1677 authorized by section 159.825(1)(f) and (g), Florida Statutes,
1678 regardless of the tax treatment of such bonds being authorized,
1679 subject to the finding by the board of a net saving to the
1680 district resulting by reason thereof. Such authorizing
1681 resolution may further provide that such bonds may be executed
1682 in accordance with the Registered Public Obligations Act, except
1683 that bonds not issued in registered form shall be valid if
1684 manually countersigned by an officer designated by appropriate
1685 resolution of the board. The seal of the district may be
1686 affixed, lithographed, engraved, or otherwise reproduced in
1687 facsimile on such bonds. In case any officer whose signature
1688 shall appear on any bonds or coupons shall cease to be such
1689 officer before the delivery of such bonds, such signature or

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facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until such delivery.

(c) Interim certificates; replacement certificates.--Pending the preparation of definitive bonds, the board may issue interim certificates or receipts or temporary bonds, in such form and with such provisions as the board may determine, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds which become mutilated lost, or destroyed.

(d) Negotiability of bonds.--Any bond issued under this act or any temporary bond, in the absence of an express recital on the face thereof that it is nonnegotiable, shall be fully negotiable and shall be and constitute a negotiable instrument within the meaning and for all purposes of the law merchant and the laws of the state.

(e) Defeasance.--The board may make such provision with respect to the defeasance of the right, title, and interest of the holders of any of the bonds and obligations of the district in any revenues, funds, or other properties by which such bonds are secured as the board deems appropriate and, without limitation on the foregoing, may provide that when such bonds or obligations become due and payable or shall have been called for redemption and the whole amount of the principal and interest and premium, if any, due and payable upon the bonds or obligations then outstanding shall be held in trust for such purpose, and provision shall also be made for paying all other

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sums payable in connection with such bonds or other obligations,
then and in such event the right, title, and interest of the
holders of the bonds in any revenues, funds, or other properties
by which such bonds are secured shall thereupon cease,
terminate, and become void; and the board may apply any surplus
in any sinking fund established in connection with such bonds or
obligations and all balances remaining in all other funds or
accounts other than moneys held for the redemption or payment of
the bonds or other obligations to any lawful purpose of the
district as the board shall determine.

(f) Issuance of additional bonds.--If the proceeds of any
bonds are less than the cost of completing the project in
connection with which such bonds were issued, the board may
authorize the issuance of additional bonds, upon such terms and
conditions as the board may provide in the resolution
authorizing the issuance thereof, but only in compliance with
the resolution or other proceedings authorizing the issuance of
the original bonds.

(g) Refunding bonds.--The district shall have the power to
issue bonds to provide for the retirement or refunding of any
bonds or obligations of the district that at the time of such
issuance are or subsequent thereto become due and payable, or
that at the time of issuance have been called or are or will be
subject to call for redemption within 10 years thereafter, or
the surrender of which can be procured from the holders thereof
at prices satisfactory to the board. Refunding bonds may be
issued at any time that in the judgment of the board such
issuance will be advantageous to the district. No approval of

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the qualified electors residing in the district shall be
required for the issuance of refunding bonds except in cases in
which such approval is required by the State Constitution. The
board may by resolution confer upon the holders of such
refunding bonds all rights, powers, and remedies to which the
holders would be entitled if they continued to be the owners and
had possession of the bonds for the refinancing of which such
refunding bonds are issued, including, but not limited to, the
preservation of the lien of such bonds on the revenues of any
project or on pledged funds, without extinguishment, impairment,
or diminution thereof. The provisions of this act pertaining to
bonds of the district shall, unless the context otherwise
requires, govern the issuance of refunding bonds, the form and
other details thereof, the rights of the holders thereof, and
the duties of the board with respect to them.

(h) Revenue bonds.--

1. The district shall have the power to issue revenue
bonds from time to time without limitation as to amount. Such
revenue bonds may be secured by, or payable from, the gross or
net pledge of the revenues to be derived from any project or
combination of projects; from the rates, fees, or other charges
to be collected from the users of any project or projects; from
any revenue-producing undertaking or activity of the district;
from special assessments; or from benefit special assessments;
or from any other source or pledged security. Such bonds shall
not constitute an indebtedness of the district, and the approval
of the qualified electors shall not be required unless such

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1773 bonds are additionally secured by the full faith and credit and
1774 taxing power of the district.

1775 2. Any two or more projects may be combined and
1776 consolidated into a single project and may hereafter be operated
1777 and maintained as a single project. The revenue bonds authorized
1778 herein may be issued to finance any one or more of such
1779 projects, regardless of whether or not such projects have been
1780 combined and consolidated into a single project. If the board
1781 deems it advisable, the proceedings authorizing such revenue
1782 bonds may provide that the district may thereafter combine the
1783 projects then being financed or theretofore financed with other
1784 projects to be subsequently financed by the district and that
1785 revenue bonds to be thereafter issued by the district shall be
1786 on parity with the revenue bonds then being issued, all on such
1787 terms, conditions, and limitations as shall have been provided
1788 in the proceeding which authorized the original bonds.

1789 (i) General obligation bonds.--

1790 1. Subject to the limitations of this charter, the
1791 district shall have the power from time to time to issue general
1792 obligation bonds to finance or refinance capital projects or to
1793 refund outstanding bonds in an aggregate principal amount of
1794 bonds outstanding at any one time not in excess of 35 percent of
1795 the assessed value of the taxable property within the district
1796 as shown on the pertinent tax records at the time of the
1797 authorization of the general obligation bonds for which the full
1798 faith and credit of the district is pledged. Except for
1799 refunding bonds, no general obligation bonds shall be issued
1800 unless the bonds are issued to finance or refinance a capital

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1801 project and the issuance has been approved at an election held
1802 in accordance with the requirements for such election as
1803 prescribed by the State Constitution. Such elections shall be
1804 called to be held in the district by the Board of County
1805 Commissioners of Brevard County upon the request of the board of
1806 the district. The expenses of calling and holding an election
1807 shall be at the expense of the district, and the district shall
1808 reimburse the county for any expenses incurred in calling or
1809 holding such election.

1810 2. The district may pledge its full faith and credit for
1811 the payment of the principal and interest on such general
1812 obligation bonds and for any reserve funds provided therefor and
1813 may unconditionally and irrevocably pledge itself to levy ad
1814 valorem taxes on all taxable property in the district, to the
1815 extent necessary for the payment thereof, without limitation as
1816 to rate or amount.

1817 3. If the board determines to issue general obligation
1818 bonds for more than one capital project, the approval of the
1819 issuance of the bonds for each and all such projects may be
1820 submitted to the electors on one and the same ballot. The
1821 failure of the electors to approve the issuance of bonds for one
1822 or more capital projects shall not defeat the approval of any
1823 bonds for any capital project which has been approved by the
1824 electors.

1825 4. In arriving at the amount of general obligation bonds
1826 permitted to be outstanding at any one time pursuant to
1827 subparagraph 1., there shall not be included any general

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1828 obligation bonds which are additionally secured by the pledge
 1829 of:

1830 a. Any assessments levied in an amount sufficient to pay
 1831 the principal and interest on the general obligation bonds so
 1832 additionally secured, which assessments have been equalized and
 1833 confirmed by resolution of the board pursuant to this act or
 1834 section 170.08, Florida Statutes.

1835 b. Water revenues, sewer revenues, or water and sewer
 1836 revenues of the district to be derived from user fees in an
 1837 amount sufficient to pay the principal and interest on the
 1838 general obligation bonds so additionally secured.

1839 c. Any combination of assessments and revenues described
 1840 in sub-subparagraphs a. and b.

1841 (j) Bonds as legal investment or security.--

1842 1. Notwithstanding any provisions of any other law to the
 1843 contrary, all bonds issued under the provisions of this act
 1844 shall constitute legal investments for savings banks, banks,
 1845 trust companies, insurance companies, executors, administrators,
 1846 trustees, guardians, and other fiduciaries and for any board,
 1847 body, agency, instrumentality, county, municipality, or other
 1848 political subdivision of the state and shall be and constitute
 1849 security which may be deposited by banks or trust companies as
 1850 security for deposits of state, county, municipal, or other
 1851 public funds or by insurance companies as required or voluntary
 1852 statutory deposits.

1853 2. Any bonds issued by the district shall be incontestable
 1854 in the hands of bona fide purchasers or holders for value and

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shall not be invalid because of any irregularity or defect in the proceedings for the issue and sale thereof.

(k) Covenants.--Any resolution authorizing the issuance of bonds may contain such covenants as the board may deem advisable, and all such covenants shall constitute valid and legally binding and enforceable contracts between the district and the bondholders, regardless of the time of issuance thereof. Such covenants may include, without limitation, covenants concerning the disposition of the bond proceeds; the use and disposition of project revenues; the pledging of revenues, taxes, and assessments; the obligations of the district with respect to the operation of the project and the maintenance of adequate project revenues; the issuance of additional bonds; the appointment, powers, and duties of trustees and receivers; the acquisition of outstanding bonds and obligations; restrictions on the establishing of competing projects or facilities; restrictions on the sale or disposal of the assets and property of the district; the priority of assessment liens; the priority of claims by bondholders on the taxing power of the district; the maintenance of deposits to ensure the payment of revenues by users of district facilities and services; the discontinuance of district services by reason of delinquent payments; acceleration upon default; the execution of necessary instruments; the procedure for amending or abrogating covenants with the bondholders; and such other covenants as may be deemed necessary or desirable for the security of the bondholders.

(l) Validation proceedings.--The power of the district to issue bonds under the provisions of this act may be determined,

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1883 and any of the bonds of the district maturing over a period of
 1884 more than 5 years shall be validated and confirmed, by court
 1885 decree, under the provisions of chapter 75, Florida Statutes,
 1886 and laws amendatory thereof or supplementary thereto.

1887 (m) Tax exemption.--To the extent allowed by general law,
 1888 all bonds issued hereunder and interest paid thereon and all
 1889 fees, charges, and other revenues derived by the district from
 1890 the projects provided by this act are exempt from all taxes by
 1891 the state or by any political subdivision, agency, or
 1892 instrumentality thereof; however, any interest, income, or
 1893 profits on debt obligations issued hereunder are not exempt from
 1894 the tax imposed by chapter 220, Florida Statutes.

1895 (n) Application of section 189.4085, Florida
 1896 Statutes.--Bonds issued by the district shall meet the criteria
 1897 set forth in section 189.4085, Florida Statutes.

1898 (o) Act furnishes full authority for issuance of the
 1899 bonds.--This act constitutes full and complete authority for the
 1900 issuance of bonds and the exercise of the powers of the district
 1901 provided herein. No procedures or proceedings, publications,
 1902 notices, consents, approvals, orders, acts, or things by the
 1903 board, or any board, officer, commission, department, agency, or
 1904 instrumentality of the district, other than those required b
 1905 this act, shall be required to perform anything under this act,
 1906 except that the issuance or sale of bonds pursuant to the
 1907 provisions of this act shall comply with the general law
 1908 requirements applicable to the issuance or sale of bonds by the
 1909 district. Nothing in this act shall be construed to authorize

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the district to utilize bond proceeds to fund the ongoing operations of the district.

(p) Pledge by the state to the bondholders of the district.--The state pledges to the holders of any bonds issued under this act that it will not limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy and collect the taxes, assessments, rentals, rates, fees, and other charges provided for herein and to fulfill the terms of any agreement made with the holders of such bonds or other obligations and that it will not in any way impair the rights or remedies of such holders.

(q) Default.--A default on the bonds or obligations of a district shall not constitute a debt or obligation of the state or any general-purpose local government or the state.

(11) TRUST AGREEMENTS.--Any issue of bonds shall be secured by a trust agreement by and between the district and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received from any projects of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board may approve, including, without limitation, covenants setting forth the duties of the district in relation to: the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any projects; the fixing and revising of the rates, fees, and

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charges; and the custody, safeguarding, and application of all
moneys and for the employment of consulting engineers in
connection with such acquisition, construction, reconstruction,
improvement, maintenance, repair, or operation. It shall be
lawful for any bank or trust company within or without the state
which may act as a depository of the proceeds of bonds or of
revenues to furnish such indemnifying bonds or to pledge such
securities as may be required by the district. Such resolution
or trust agreement may set forth the rights and remedies of the
bondholders and of the trustee, if any, and may restrict the
individual right of action by bondholders. The board may provide
for the payment of proceeds of the sale of the bonds and the
revenues of any project to such officer, board, or depository as
it may designate for the custody thereof and may provide for the
method of disbursement thereof with such safeguards and
restrictions as it may determine. All expenses incurred in
carrying out the provisions of such resolution or trust
agreement may be treated as part of the cost of operation of the
project to which such trust agreement pertains.

(12) AD VALOREM TAXES; ASSESSMENTS, BENEFIT SPECIAL
ASSESSMENTS, MAINTENANCE SPECIAL ASSESSMENTS, AND SPECIAL
ASSESSMENTS; MAINTENANCE TAXES.--

(a) Ad valorem taxes.--When all members of the board are
qualified electors who are elected by qualified electors of the
district, the board shall have the power to levy and assess an
ad valorem tax on all the taxable property in the district to
construct, operate, and maintain assessable improvements; to pay
the principal of, and interest on, any general obligation bonds

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1966 of the district; and to provide for any sinking or other funds
 1967 established in connection with any such bonds. An ad valorem tax
 1968 levied by the board for operating purposes, exclusive of debt
 1969 service on bonds, shall not exceed 3 mills. The ad valorem tax
 1970 provided for herein shall be in addition to county and all other
 1971 ad valorem taxes provided for by law. Such tax shall be
 1972 assessed, levied, and collected in the same manner and at the
 1973 same time as county taxes. The levy of ad valorem taxes must be
 1974 approved by referendum as required by s. 9, Article VII of the
 1975 State Constitution.

1976 (b) Benefit special assessments.--The board annually shall
 1977 determine, order, and levy the annual installment of the total
 1978 benefit special assessments for bonds issued and related
 1979 expenses to finance assessable improvements. These assessments
 1980 may be due and collected during each year that county taxes are
 1981 due and collected, in which case such annual installment and
 1982 levy shall be evidenced to and certified to the property
 1983 appraiser by the board not later than August 31 of each year.
 1984 Such assessment shall be entered by the property appraiser on
 1985 the county tax rolls and shall be collected and enforced by the
 1986 tax collector in the same manner and at the same time as county
 1987 taxes, and the proceeds thereof shall be paid to the district.
 1988 However, this subsection shall not prohibit the district in its
 1989 discretion from using the method prescribed in either section
 1990 197.3632, Florida Statutes or chapter 173, Florida Statutes, as
 1991 each may be amended from time to time, for collecting and
 1992 enforcing these assessments. Each annual installment of benefit
 1993 special assessments shall be a lien on the property against

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1994 which assessed until paid and shall be enforceable in like
 1995 manner as county taxes. The amount of the assessment for the
 1996 exercise of the district's powers under subsections (6) and (7)
 1997 shall be determined by the board based upon a report of the
 1998 district's engineer and assessed by the board upon such lands,
 1999 which may be part or all of the lands within the district
 2000 benefited by the improvement, apportioned between benefited
 2001 lands in proportion to the benefits received by each tract of
 2002 land. The board may, if it determines it is in the best
 2003 interests of the district, set forth in the proceedings
 2004 initially levying such benefit special assessments or in
 2005 subsequent proceedings a formula for the determination of an
 2006 amount, which when paid by a taxpayer with respect to any tax
 2007 parcel, shall constitute a prepayment all future annual
 2008 installments of such benefit special assessments and that the
 2009 payment of which amount with respect such tax parcel shall
 2010 relieve and discharge such tax parcel of the lien of such
 2011 benefit special assessments and any subsequent annual
 2012 installment thereof. The board may provide further that upon
 2013 delinquency in the payment of any annual installment of benefit
 2014 special assessments, the prepayment amount of all future annual
 2015 installments of benefit special assessments as determined in the
 2016 preceding sentence shall be and become immediately due and
 2017 payable together with such delinquent annual installment.

2018 (c) Non-ad valorem maintenance taxes.--If and when
 2019 authorized by general law, to maintain and to preserve the
 2020 physical facilities and services constituting the works,
 2021 improvements, or infrastructure provided by the district

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pursuant to this act, to repair and restore any one or more of
them, when needed, and to defray the current expenses of the
district, including any sum which may be required to pay state
and county ad valorem taxes on any taxable lands which may have
been purchased and which are held by the district under the
provisions of this act, the Board of Supervisors may, upon the
completion of said systems, facilities, services, works,
improvements, or infrastructure, in whole or in part, as may be
certified to the board by the engineer of the board, levy
annually a non-ad valorem and nonmillage tax upon each tract or
parcel of land within the district, to be known as a
"maintenance tax." This non-ad valorem maintenance tax shall be
apportioned upon the basis of the net assessments of benefits
assessed as accruing from the original construction and shall be
evidenced to and certified by the Board of Supervisors of the
district not later than June 1 of each year to the property
appraiser of Brevard County and shall be extended by the
property appraiser on the tax roll of the property appraiser, as
certified by the property appraiser to the tax collector, and
collected by the tax collector on the merged collection roll of
the tax collector in the same manner and at the same time as
county ad valorem taxes, and the proceeds therefrom shall be
paid to the district. This non-ad valorem maintenance tax shall
be a lien until paid on the property against which assessed and
enforceable in like manner and of the same dignity as county ad
valorem taxes.

(d) Maintenance special assessments.--To maintain and
preserve the facilities and projects of the district, the board

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2050 may levy a maintenance special assessment. This assessment may
2051 be evidenced to and certified to the property appraiser by the
2052 Board of Supervisors not later than August 31 of each year and
2053 shall be entered by the property appraiser on the county tax
2054 rolls and shall be collected and enforced by the tax collector
2055 in the same manner and at the same time as county taxes, and the
2056 proceeds therefrom shall be paid to the district. However, this
2057 subsection shall not prohibit the district in its discretion
2058 from using the method prescribed in either section 197.363,
2059 section 197.3631, or section 197.3632, Florida Statutes, for
2060 collecting and enforcing these assessments. These maintenance
2061 special assessments shall be a lien on the property against
2062 which assessed until paid and shall be enforceable in like
2063 manner as county taxes. The amount of the maintenance special
2064 assessment for the exercise of the district's powers under this
2065 section shall be determined by the board based upon a report of
2066 the district's engineer and assessed by the board upon such
2067 lands, which may be all of the lands within the district
2068 benefited by the maintenance thereof, apportioned between the
2069 benefited lands in proportion to the benefits received by each
2070 tract of land.

2071 (e) Special assessments.--To levy and impose any special
2072 assessments pursuant to this subsection.

2073 (f) Enforcement of taxes.--The collection and enforcement
2074 of all taxes levied by the district shall be at the same time
2075 and in like manner as county taxes, and the provisions of the
2076 laws of Florida relating to the sale of lands for unpaid and
2077 delinquent county taxes; the issuance, sale, and delivery of tax

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certificates for such unpaid and delinquent county taxes; the redemption thereof; the issuance to individuals of tax deeds based thereon; and all other procedures in connection therewith shall be applicable to the district to the same extent as if such statutory provisions were expressly set forth herein. All taxes shall be subject to the same discounts as county taxes.

(g) When unpaid tax is delinquent; penalty.--All taxes provided for in this act shall become delinquent and bear penalties on the amount of such taxes in the same manner as county taxes.

(h) Status of assessments.--Benefit special assessments, maintenance special assessments, and special assessments are hereby found and determined to be non-ad valorem assessments as defined by section 197.3632, Florida Statutes. Maintenance taxes are non-ad valorem taxes and are not special assessments.

(i) Assessments constitute liens; collection.--Any and all assessments, including special assessments, benefit special assessments, and maintenance special assessments authorized by this section, and including special assessments as defined by section 2(2)(z) and granted and authorized by this subsection, and including maintenance taxes if authorized by general law, shall constitute a lien on the property against which assessed from the date of levy and imposition thereof until paid, coequal with the lien of state, county, municipal, and school board taxes. These assessments may be collected, at the district's discretion, under authority of section 197.3631, Florida Statutes, as amended from time to time, by the tax collector pursuant to the provisions of sections 197.3632 and 197.3635,

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Florida Statutes, as amended from time to time, or in accordance with other collection measures provided by law. In addition to, and not in limitation of, any powers otherwise set forth herein or in general law, these assessments may also be enforced pursuant to the provisions of chapter 173, Florida Statutes, as amended from time to time.

(j) Land owned by governmental entity.--Except as otherwise provided by law, no levy of ad valorem taxes or non-ad valorem assessments under this act, chapter 170, or chapter 197, Florida Statutes, as each may be amended from time to time, or otherwise, by a board of a District, on property of a governmental entity that is subject to a ground lease as described in section 190.003(13), Florida Statutes, shall constitute a lien or encumbrance on the underlying fee interest of such governmental entity.

(13) SPECIAL ASSESSMENTS.--

(a) As an alternative method to the levy and imposition of special assessments pursuant to chapter 170, Florida Statutes, pursuant to the authority of section 197.3631, Florida Statutes, or pursuant to other provisions of general law, now or hereafter enacted, which provide a supplemental means or authority to impose, levy, and collect special assessments as otherwise authorized under this act, the board may levy and impose special assessments to finance the exercise of any of its powers permitted under this act using the following uniform procedures:

1. At a noticed meeting, the board of supervisors of the district may consider and review an engineer's report on the costs of the systems, facilities, and services to be provided, a

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2134 preliminary assessment methodology, and a preliminary roll based
2135 on acreage or platted lands, depending upon whether platting has
2136 occurred.

2137 a. The assessment methodology shall address and discuss
2138 and the board shall consider whether the systems, facilities,
2139 and services being contemplated will result in special benefits
2140 peculiar to the property, different in kind and degree than
2141 general benefits, as a logical connection between the systems,
2142 facilities, and services themselves and the property, and
2143 whether the duty to pay the assessments by the property owners
2144 is apportioned in a manner that is fair and equitable and not in
2145 excess of the special benefit received. It shall be fair and
2146 equitable to designate a fixed proportion of the annual debt
2147 service, together with interest thereon, on the aggregate
2148 principal amount of bonds issued to finance such systems,
2149 facilities, and services which give rise to unique, special, and
2150 peculiar benefits to property of the same or similar
2151 characteristics under the assessment methodology so long as such
2152 fixed proportion does not exceed the unique, special, and
2153 peculiar benefits enjoyed by such property from such systems,
2154 facilities, and services.

2155 b. The engineer's cost report shall identify the nature
2156 the proposed systems, facilities, and services, their location,
2157 a cost breakdown plus a total estimated cost, including cost of
2158 construction or reconstruction, labor, and materials, lands,
2159 property, rights, easements, franchises, or systems, facilities,
2160 and services to be acquired, cost of plans and specifications,
2161 surveys of estimates of costs and revenues, costs of

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engineering, legal, and other professional consultation
services, and other expenses or costs necessary or incident to
determining the feasibility or practicability of such
construction, reconstruction, or acquisition, administrative
expenses, relationship to the authority and power of the
district in its charter, and such other expenses or costs as may
be necessary or incident to the financing to be authorized by
the Board of Supervisors.

c. The preliminary assessment roll to be prepared will be
in accordance with the method of assessment provided for in the
assessment methodology and as may be adopted by the Board of
Supervisors; the assessment roll shall be completed as promptly
as possible and shall show the acreage, lots, lands, or plats
assessed and the amount of the fairly and reasonably apportioned
assessment based on special and peculiar benefit to the
property, lot, parcel, or acreage of land; and, if the
assessment against each such lot, parcel, acreage, or portion of
land is to be paid in installments, the number of annual
installments in which the assessment is divided shall be entered
into and shown upon the assessment roll.

2. The Board of Supervisors of the district may determine
and declare by an initial assessment resolution to levy and
assess the assessments with respect to assessable improvements
stating the nature of the systems, facilities, and services,
improvements, projects, or infrastructure constituting such
assessable improvements, the information in the engineer's cost
report, the information in the assessment methodology as
determined by the board at the noticed meeting and referencing

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2190 and incorporating as part of the resolution the engineer's cost
2191 report, the preliminary assessment methodology, and the
2192 preliminary assessment roll as referenced exhibits to the
2193 resolution by reference. If the board determines to declare and
2194 levy the special assessments by the initial assessment
2195 resolution, the board shall also adopt and declare a notice
2196 resolution which shall provide and cause the initial assessment
2197 resolution to be published once a week for a period of 2 weeks
2198 in newspapers of general circulation published in Brevard County
2199 and said board shall by the same resolution fix a time and place
2200 at which the owner or owners of the property to be assessed or
2201 any other persons interested therein may appear before said
2202 board and be heard as to the propriety and advisability of
2203 making such improvements, as to the costs thereof, as to the
2204 manner of payment therefor, and as to the amount thereof to be
2205 assessed against each property so improved. Thirty days' notice
2206 in writing of such time and place shall be given to such
2207 property owners. The notice shall include the amount of the
2208 assessment and shall be served by mailing a copy to each
2209 assessed property owner at his or her last known address, the
2210 names and addresses of such property owners to be obtained from
2211 the record of the property appraiser of the county political
2212 subdivision in which the land is located or from such other
2213 sources as the district manager or engineer deems reliable, and
2214 proof of such mailing shall be made by the affidavit of the
2215 manager of the district or by the engineer, said proof to be
2216 filed with the district manager, provided that failure to mail
2217 said notice or notices shall not invalidate any of the

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2218 proceedings hereunder. It is provided further that the last
2219 publication shall be at least 1 week prior to the date of the
2220 hearing on the final assessment resolution. Said notice shall
2221 describe the general areas to be improved and advise all persons
2222 interested that the description of each property to be assessed
2223 and the amount to be assessed to each piece, parcel, lot, or
2224 acre of property may be ascertained at the office of the manager
2225 of the district. Such service by publication shall be verified
2226 by the affidavit of the publisher and filed with the manager of
2227 the district. Moreover, the initial assessment resolution with
2228 its attached, referenced, and incorporated engineer's cost
2229 report, preliminary assessment methodology, and preliminary
2230 assessment roll, along with the notice resolution, shall be
2231 available for public inspection at the office of the manager and
2232 the office of the engineer or any other office designated by the
2233 Board of Supervisors in the notice resolution. Notwithstanding
2234 the foregoing, the landowners of all of the property which is
2235 proposed to be assessed may give the district written notice of
2236 waiver of any notice and publication provided for in this
2237 subparagraph and such notice and publication shall not be
2238 required, provided, however, that any meeting of the Board of
2239 Supervisors to consider such resolution shall be a publicly
2240 noticed meeting.

2241 3. At the time and place named in the noticed resolution
2242 as provided for in subparagraph 2., the board of supervisors of
2243 the district shall meet and hear testimony from affected
2244 property owners as to the propriety and advisability of making
2245 the systems, facilities, services, projects, works,

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2246 improvements, or infrastructure and funding them with
2247 assessments referenced in the initial assessment resolution on
2248 the property. Following the testimony and questions from the
2249 members of the board or any professional advisors to the
2250 district of the preparers of the engineer's cost report, the
2251 assessment methodology, and the assessment roll, the board of
2252 supervisors shall make a final decision on whether to levy and
2253 assess the particular assessments. Thereafter, the board of
2254 supervisors shall meet as an equalizing board to hear and to
2255 consider any and all complaints as to the particular assessments
2256 and shall adjust and equalize the assessments on the basis of
2257 justice and right.

2258 4. When so equalized and approved by resolution or
2259 ordinance by the board of supervisors, to be called the final
2260 assessment resolution, a final assessment roll shall be filed
2261 with the clerk of the board and such assessment shall stand
2262 confirmed and remain legal, valid, and binding first liens on
2263 the property against which such assessments are made until paid,
2264 equal in dignity to the first liens of ad valorem taxation of
2265 county and municipal governments and school boards. However,
2266 upon completion of the systems, facilities, service, project,
2267 improvement, works, or infrastructure, the district shall credit
2268 to each of the assessments the difference in the assessment as
2269 originally made, approved, levied, assessed, and confirmed and
2270 the proportionate part of the actual cost of the improvement to
2271 be paid by the particular special assessments as finally
2272 determined upon the completion of the improvement; but in no
2273 event shall the final assessment exceed the amount of the

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2274 special and peculiar benefits as apportioned fairly and
2275 reasonably to the property from the system, facility, or service
2276 being provided as originally assessed. Promptly after such
2277 confirmation, the assessment shall be recorded by the clerk of
2278 the district in the minutes of the proceedings of the district,
2279 and the record of the lien in this set of minutes shall
2280 constitute prima facie evidence of its validity. The board of
2281 supervisors, in its sole discretion, may, by resolution grant a
2282 discount equal to all or a part of the payee's proportionate
2283 share of the cost of the project consisting of bond financing
2284 cost, such as capitalized interest, funded reserves, and bond
2285 discounts included in the estimated cost of the project, upon
2286 payment in full of any assessments during such period prior to
2287 the time such financing costs are incurred as may be specified
2288 by the board of supervisors in such resolution.

2289 5. District assessments may be made payable in
2290 installments over no more than 30 years from the date of the
2291 payment of the first installment thereof and may bear interest
2292 at fixed or variable rates.

2293 (b) Notwithstanding any provision of this act or chapter
2294 170, Florida Statutes, that portion of section 170.09, Florida
2295 Statutes, that provides that assessments may be paid without
2296 interest at any time within 30 days after the improvement is
2297 completed and a resolution accepting the same has been adopted
2298 by the governing authority shall not be applicable to any
2299 district assessments, whether imposed, levied, and collected
2300 pursuant to the provisions of this act or other provisions of

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general law, including, but not limited to chapter 170, Florida Statutes.

(c) In addition, the district is authorized expressly in the exercise of its rulemaking power to adopt a rule or rules which provides or provide for notice, levy, imposition, equalization, and collection of assessments.

(14) ISSUANCE OF CERTIFICATES OF INDEBTEDNESS BASED ON ASSESSMENTS FOR ASSESSABLE IMPROVEMENTS; ASSESSMENT BONDS.--

(a) The board may, after any special assessments or benefit special assessments for assessable improvements are made, determined, and confirmed as provided in this act, issue certificates of indebtedness for the amount so assessed against the abutting property or property otherwise benefited, as the case may be, and separate certificates shall be issued against each part or parcel of land or property assessed, which certificates shall state the general nature of the improvement for which the assessment is made. The certificates shall be payable in annual installments in accordance with the installments of the special assessment for which they are issued. The board may determine the interest to be borne by such certificates, not to exceed the maximum rate allowed by general law, and may sell such certificates at either private or public sale and determine the form, manner of execution, and other details of such certificates. The certificates shall recite that they are payable only from the special assessments levied and collected from the part or parcel of land or property against which they are issued. The proceeds of such certificates may be pledged for the payment of principal of and interest on any

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2329 revenue bonds or general obligation bonds issued to finance in
 2330 whole or in part such assessable improvement, or, if not so
 2331 pledged, may be used to pay the cost or part of the cost of such
 2332 assessable improvements.

2333 (b) The district may also issue assessment bonds, revenue
 2334 bonds, or other obligations payable from a special fund into
 2335 which such certificates of indebtedness referred to in the
 2336 preceding subsection may be deposited or, if such certificates
 2337 of indebtedness have not been issued, the district may assign to
 2338 such special fund for the benefit of the holders of such
 2339 assessment bonds or other obligations, or to a trustee for such
 2340 bondholders, the assessment liens provided for in this act
 2341 unless such certificates of indebtedness or assessment liens
 2342 have been theretofore pledged for any bonds or other obligations
 2343 authorized hereunder. In the event of the creation of such
 2344 special fund and the issuance of such assessment bonds or other
 2345 obligations, the proceeds of such certificates of indebtedness
 2346 or assessment liens deposited therein shall be used only for the
 2347 payment of the assessment bonds or other obligations issued as
 2348 provided in this section. The district is authorized to covenant
 2349 with the holders of such assessment bonds, revenue bonds, or
 2350 other obligations that it will diligently and faithfully enforce
 2351 and collect all the special assessments, and interest and
 2352 penalties thereon, for which such certificates of indebtedness
 2353 or assessment liens have been deposited in or assigned to such
 2354 fund; to foreclose such assessment liens so assigned to such
 2355 special fund or represented by the certificates of indebtedness
 2356 deposited in the special fund, after such assessment liens have

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2357 become delinquent, and deposit the proceeds derived from such
2358 foreclosure, including interest and penalties, in such special
2359 fund; and to make any other covenants deemed necessary or
2360 advisable in order to properly secure the holders of such
2361 assessment bonds or other obligations.

2362 (c) The assessment bonds, revenue bonds, or other
2363 obligations issued pursuant to this section shall have such
2364 dates of issue and maturity as shall be deemed advisable by the
2365 board; however, the maturities of such assessment bonds or other
2366 obligations shall not be more than 2 years after the due date of
2367 the last installment which will be payable on any of the special
2368 assessments for which such assessment liens, or the certificates
2369 of indebtedness representing such assessment liens, are assigned
2370 to or deposited in such special fund.

2371 (d) Such assessment bonds, revenue bonds, or other
2372 obligations issued under this section shall bear such interest
2373 as the board may determine, not to exceed the maximum rate
2374 allowed by general law, and shall be executed, shall have such
2375 provisions for redemption prior to maturity, shall be sold in
2376 the manner, and shall be subject to all of the applicable
2377 provisions contained in this act for revenue bonds, except as
2378 the same may be inconsistent with the provisions of this
2379 section.

2380 (e) All assessment bonds, revenue bonds, or other
2381 obligations issued under the provisions of this section shall
2382 be, shall constitute, and shall have all the qualities and
2383 incidents of negotiable instruments under the law merchant and
2384 the laws of the state.

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2385 (15) TAX LIENS.--All taxes of the district provided for in
2386 this act, except together with all penalties for default in the
2387 payment of the same and all costs in collecting the same,
2388 including a reasonable attorney's fee fixed by the court and
2389 taxed as a cost in the action brought to enforce payment, shall,
2390 from January 1 for each year the property is liable to
2391 assessment and until paid, constitute a lien of equal dignity
2392 with the liens for state and county taxes and other taxes of
2393 equal dignity with state and county taxes, upon all the lands
2394 against which such taxes shall be levied. A sale of any of the
2395 real property within the district for state and county or other
2396 taxes shall not operate to relieve or release the property so
2397 sold from the lien for subsequent district taxes or installments
2398 of district taxes, which lien may be enforced against such
2399 property as though no such sale thereof had been made. In
2400 addition to, and not in limitation of, the preceding sentence,
2401 for purposes of section 197.552, Florida Statutes, the lien of
2402 all special assessments levied by the district shall constitute
2403 a lien of record held by a municipal or county governmental
2404 unit. The provisions of sections 194.171, 197.122, 197.333, and
2405 197.432, Florida Statutes, shall be applicable to district taxes
2406 with the same force and effect as if such provisions were
2407 expressly set forth in this act.

2408 (16) PAYMENT OF TAXES AND REDEMPTION OF TAX LIENS BY THE
2409 DISTRICT; SHARING IN PROCEEDS OF TAX SALE.--

2410 (a) The district shall have the power and right to:

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2411 1. Pay any delinquent state, county, district, municipal,
2412 or other tax or assessment upon lands located wholly or
2413 partially within the boundaries of the district.

2414 2. Redeem or purchase any tax sales certificates issued or
2415 sold on account of any state, county, district, municipal, or
2416 other taxes or assessments upon lands located wholly or
2417 partially within the boundaries of the district.

2418 (b) Delinquent taxes paid, or tax sales certificates
2419 redeemed or purchased by the district, together with all
2420 penalties for the default in payment of the same and all costs
2421 in collecting the same and a reasonable attorney's fee, shall
2422 constitute a lien in favor of the district of equal dignity with
2423 the liens of state and county taxes and other taxes of equal
2424 dignity with state and county taxes upon all the real property
2425 against which the taxes were levied. The lien of the district
2426 may be foreclosed in the manner provided in this act.

2427 (c) In any sale of land pursuant to section 197.542,
2428 Florida Statutes, the district may certify to the clerk of the
2429 circuit court of the county holding such sale the amount of
2430 taxes due to the district upon the lands sought to be sold, and
2431 the district shall share in the disbursement of the sales
2432 proceeds in accordance with the provisions of this act and under
2433 the laws of the state.

2434 (17) FORECLOSURE OF LIENS.--Any lien in favor of the
2435 district arising under this act may be foreclosed by the
2436 district by foreclosure proceedings in the name of the district
2437 in a court of competent jurisdiction as provided by general law
2438 in like manner as is provided in chapter 173, Florida Statutes,

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2439 and the provisions of that chapter shall be applicable to such
2440 proceedings with the same force and effect as if those
2441 provisions were expressly set forth in this act. Any act
2442 required or authorized to be done by or on behalf of a
2443 municipality in foreclosure proceedings under chapter 173,
2444 Florida Statutes, may be performed by such officer or agent of
2445 the district as the board of supervisors may designate. Such
2446 foreclosure proceedings may be brought at any time after the
2447 expiration of 1 year from the date any tax, or installment
2448 thereof, becomes delinquent; however, no lien shall be
2449 foreclosed against any political subdivision or agency of the
2450 state. Other legal remedies shall remain available.

2451 (18) MANDATORY USE OF CERTAIN DISTRICT SYSTEMS,
2452 FACILITIES, AND SERVICES.--To the full extent permitted by law,
2453 the district shall require all lands, buildings, premises,
2454 persons, firms, and corporations within the district to use the
2455 water management and control facilities, water systems, and
2456 sewer systems of the district.

2457 (19) COMPETITIVE PROCUREMENT; BIDS; NEGOTIATIONS; RELATED
2458 PROVISIONS REQUIRED.--

2459 (a) No contract shall be let by the board for any goods,
2460 supplies, or materials to be purchased when the amount thereof
2461 to be paid by the district shall exceed the amount provided in
2462 section 287.017, Florida Statutes, for category four, unless
2463 notice of bids shall be advertised once in a newspaper in
2464 general circulation in Brevard County. Any board seeking to
2465 construct or improve a public building, structure, or other
2466 public works shall comply with the bidding procedures of section

2467 255.20, Florida Statutes, and other applicable general law. In
2468 each case, the bid of the lowest responsive and responsible
2469 bidder shall be accepted unless all bids are rejected because
2470 the bids are too high or the board determines it is in the best
2471 interests of the district to reject all bids. The board may
2472 require the bidders to furnish bond with a responsible surety to
2473 be approved by the board. Nothing in this section shall prevent
2474 the board from undertaking and performing the construction,
2475 operation, and maintenance of any project or facility authorized
2476 by this act by the employment of labor, material, and machinery.

2477 (b) The provisions of the Consultants' Competitive
2478 Negotiation Act, section 287.055, Florida Statutes, shall apply
2479 to contracts for engineering, architecture, landscape
2480 architecture, or registered surveying and mapping services let
2481 by the board.

2482 (c) Contracts for maintenance services for any district
2483 facility or project shall be subject to competitive bidding
2484 requirements when the amount thereof to be paid by the district
2485 exceeds the amount provided in section 287.017, Florida
2486 Statutes, for category four. The district shall adopt rules,
2487 policies, or procedures establishing competitive bidding
2488 procedures for maintenance services. Contracts for other
2489 services shall not be subject to competitive bidding unless the
2490 district adopts a rule, policy, or procedure applying
2491 competitive bidding procedures to said contracts. Nothing herein
2492 shall preclude the use of requests for proposal instead of
2493 invitations to bid as determined by the district to be in its
2494 best interest.

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(20) FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION
AND MODIFICATIONS; MINIMUM REVENUE REQUIREMENTS.--

(a) The district is authorized to prescribe, fix,
establish, and collect rates, fees, rentals, or other charges,
hereinafter sometimes referred to as "revenues," and to revise
the same from time to time, for the systems, facilities, and
services furnished by the district, within the limits of the
district, including, but not limited to, recreational
facilities, water management and control facilities, and water
and sewer systems; to recover the costs of making connection
with any district service, facility, or system; and to provide
for reasonable penalties against any user or property for an
such rates, fees, rentals, or other charges that are delinquent.

(b) No such rates, fees, rentals, or other charges for any
of the facilities or services of the district shall be fixed
until after a public hearing at which all the users of the
proposed facility or services or owners, tenants, or occupants
served or to be served thereby and all other interested persons
shall have an opportunity to be heard concerning the proposed
rates, fees, rentals, or other charges. Rates, fees, rentals,
and other charges shall be adopted under the administrative
rulemaking authority of the district, but shall not apply to
district leases. Notice of such public hearing setting forth the
proposed schedule or schedules of rates, fees, rentals, and
other charges shall have been published in a newspaper of
general circulation in Brevard County at least once and at least
10 days prior to such public hearing. The rulemaking hearing may
be adjourned from time to time. After such hearing, such

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2523 schedule or schedules, either as initially proposed or as
2524 modified or amended, may be finally adopted. A copy of the
2525 schedule or schedules of such rates, fees, rentals, or charges
2526 as finally adopted shall be kept on file in an office designated
2527 by the board and shall be open at all reasonable times to public
2528 inspection. The rates, fees, rentals, or charges so fixed for
2529 any class of users or property served shall be extended to cover
2530 any additional users or properties thereafter served which shall
2531 fall in the same class, without the necessity of any notice or
2532 hearing.

2533 (c) Such rates, fees, rentals, and charges shall be just
2534 and equitable and uniform for users of the same class, and when
2535 appropriate may be based or computed either upon the amount of
2536 service furnished, upon the average number of persons residing
2537 or working in or otherwise occupying the premises served, or
2538 upon any other factor affecting the use of the facilities
2539 furnished, or upon any combination of the foregoing factors, as
2540 may be determined by the board on an equitable basis.

2541 (d) The rates, fees, rentals, or other charges prescribed
2542 shall be such as will produce revenues, together with any other
2543 assessments, taxes, revenues, or funds available or pledged for
2544 such purpose, at least sufficient to provide for the items
2545 hereinafter listed, but not necessarily in the order stated:

2546 1. To provide for all expenses of operation and
2547 maintenance of such facility or service.

2548 2. To pay when due all bonds and interest thereon for the
2549 payment of which such revenues are, or shall have been, pledged
2550 or encumbered, including reserves for such purpose.

2551 3. To provide for any other funds which may be required
2552 under the resolution or resolutions authorizing the issuance of
2553 bonds pursuant to this act.

2554 (e) The board shall have the power to enter into contracts
2555 for the use of the projects of the district and with respect to
2556 the services, systems, and facilities furnished or to be
2557 furnished by the district.

2558 (21) RECOVERY OF DELINQUENT CHARGES.--In the event that
2559 any rates, fees, rentals, charges, or delinquent penalties shall
2560 not be paid as and when due and shall be in default for 60 days
2561 or more, the unpaid balance thereof and all interest accrued
2562 thereon, together with reasonable attorney's fees and costs, may
2563 be recovered by the district in a civil action.

2564 (22) DISCONTINUANCE OF SERVICE.--In the event the fees,
2565 rentals, or other charges for water and sewer services, or
2566 either of them, are not paid when due, the board shall have the
2567 power, under such reasonable rules and regulations as the board
2568 may adopt, to discontinue and shut off both water and sewer
2569 services until such fees, rentals, or other charges, including
2570 interest, penalties, and charges for the shutting off and
2571 discontinuance and the restoration of such water and sewer
2572 services or both, are fully paid; and, for such purposes, the
2573 board may enter on any lands, waters, or premises of any person,
2574 firm, corporation, or body, public or private, within the
2575 district limits. Such delinquent fees, rentals, or other charges
2576 together with interest, penalties, and charges for the shutting
2577 off and discontinuance and the restoration of such services and
2578 facilities and reasonable attorney's fees and other expenses may

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2579 be recovered by the district, which may also enforce payment of
2580 such delinquent fees, rentals, or other charges by any other
2581 lawful method of enforcement.

2582 (23) ENFORCEMENT AND PENALTIES.--The board or any
2583 aggrieved person may have recourse to such remedies in law and
2584 at equity as may be necessary to ensure compliance with the
2585 provisions of this act, including injunctive relief to enjoin or
2586 restrain any person violating the provisions of this act or any
2587 bylaws, resolutions, regulations, rules, codes, or orders
2588 adopted under this act. In case any building or structure is
2589 erected, constructed, reconstructed, altered, repaired,
2590 converted, or maintained, or any building, structure, land, or
2591 water is used in violation of this act or of any code, order,
2592 resolution, or other regulation made under authority conferred
2593 by this act or under law, the board or any citizen residing in
2594 the district may institute any appropriate action or proceeding
2595 to prevent such unlawful erection, construction, reconstruction,
2596 alteration, repair, conversion, maintenance, or use; to
2597 restrain, correct, or avoid such violation; to prevent the
2598 occupancy of such building, structure, land, or water; and to
2599 prevent any illegal act, conduct, business, or use in or about
2600 such premises, land, or water.

2601 (24) SUITS AGAINST THE DISTRICT.--Any suit or action
2602 brought or maintained against the district for damages arising
2603 out of tort, including, without limitation, any claim arising
2604 upon account of an act causing an injury or loss of property,
2605 personal injury, or death, shall be subject to the limitations
2606 provided in section 768.28, Florida Statutes.

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(25) EXEMPTION OF DISTRICT PROPERTY FROM EXECUTION.--All district property shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against such property, nor shall any judgment against the district be a charge or lien on its property or revenues; however, nothing contained herein shall apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the district in connection with any of the bonds or obligations of the district.

(26) TERMINATION, CONTRACTION, OR EXPANSION OF DISTRICT.--

(a) The board may ask the Legislature through its local legislative delegation in and for Brevard County to amend this act to contract, to expand or to contract, or to expand the boundaries of the district by amendment of this section.

(b) The district shall remain in existence until:

1. The district is terminated and dissolved pursuant to amendment to this act by the Legislature.

2. The district has become inactive pursuant to section 189.4044, Florida Statutes.

Provided, however, if, within 5 years after the effective date of this act establishing the district, the primary landowner has not received a development permit, as defined in chapter 380, on some part or all of the area covered by the district, then the district will be automatically dissolved and a judge of the circuit court shall cause a statement to that effect to be filed in the public records.

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2634 (27) INCLUSION OF TERRITORY.--The inclusion of any or all
2635 territory of the district within a municipality does not change,
2636 alter, or affect the boundary, territory, existence, or
2637 jurisdiction of the district.

2638 (28) SALE OF REAL ESTATE WITHIN THE DISTRICT; REQUIRED
2639 DISCLOSURE TO PURCHASER.--Subsequent to the creation of this
2640 district under this act, each contract for the initial sale of a
2641 parcel of real property and each contract for the initial sale
2642 of a residential unit within the district shall include,
2643 immediately prior to the space reserved in the contract for the
2644 signature of the purchaser, the following disclosure statement
2645 in boldfaced and conspicuous type which is larger than the type
2646 in the remaining text of the contract: "THE VIERA STEWARDSHIP
2647 DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES
2648 AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS
2649 PAY FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF
2650 CERTAIN PUBLIC SYSTEMS, FACILITIES, AND SERVICES OF THE DISTRICT
2651 AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT.
2652 THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER
2653 LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND
2654 ASSESSMENTS PROVIDED FOR BY LAW."

2655 (29) NOTICE OF CREATION AND ESTABLISHMENT.--Within 30 days
2656 after the election of the first board of supervisors creating
2657 this district, the district shall cause to be recorded in the
2658 grantor-grantee index of the property records in each county in
2659 which it is located a "Notice of Creation and Establishment of
2660 the Viera Stewardship District." The notice shall, at a minimum,

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2661 include the legal description of the property covered by this
2662 act.

2663 (30) DISTRICT PROPERTY PUBLIC; FEES.--Any system,
2664 facility, service, works, improvement, project, or other
2665 infrastructure owned by the district, or funded by federal tax
2666 exempt bonding issued by the district, is public; and the
2667 district by rule may regulate and may impose reasonable charges
2668 or fees for the use thereof but not to the extent that such
2669 regulation or imposition of such charges or fees constitutes
2670 denial of reasonable access.

2671 Section 7. If any provision of this act is determined
2672 unconstitutional or otherwise determined invalid by a court of
2673 law, all the rest and remainder of the act shall remain in full
2674 force and effect as the law of this state.

2675 Section 8. In the election provided for in section 9, each
2676 assessable acre or fraction thereof present in person or by
2677 proxy shall be counted as one vote.

2678 Section 9. This section and section 8 shall take effect
2679 upon this act becoming law, and the remaining sections shall
2680 take effect upon approval by a majority vote of the owners of
2681 land within the district who are not exempt from ad valorem
2682 taxes or non-ad valorem assessments and who are present in
2683 person or by proxy at a landowners' meeting to be held within 90
2684 days after the effective date of this act. Such landowners'
2685 meeting shall be noticed as provided in section 5 for the
2686 initial landowners' meeting and may be combined with such
2687 meeting. However, the provisions of this act which authorize the
2688 levy of ad valorem taxation and issuance of general obligation

HB 1559

2006

2689 bonds shall take effect only upon express approval by a majority
 2690 vote of those qualified electors of the Viera Stewardship
 2691 District voting in a referendum election held at such time as
 2692 all members of the board are qualified electors who are elected
 2693 by qualified electors of the district as provided in this act.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1585

Broward County

SPONSOR(S): Sobel

TIED BILLS:

IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|-----------------------------|--------|-------------------|------------------|
| 1) Local Government Council | | Nelson <i>PPN</i> | Hamby <i>720</i> |
| 2) | | | |
| 3) | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

HB 1585 provides for the annexation and deannexation of certain described lands within the municipal limits of the City of Pembroke Pines and the Town of Southwest Ranches in Broward County. The bill notes that approximately 30 acres of property known as the Laguna Isles Community Center and adjoining wetlands currently is located in the Town of Southwest Ranches, while the remaining area of the Laguna Isles community is located within the municipal limits of the City of Pembroke Pines. Also, the bill notes that approximately 30 acres of property known as the Frontier Trails Park is owned by the Town of Southwest Ranches, but currently part of the City of Pembroke Pines.

The provisions of the bill serve to deannex the Laguna Isles Community Center and its adjoining wetlands from the Town of Southwest Ranches, and annex this property into the City of Pembroke Pines so that the entire development is housed within one municipality. The bill also will deannex the Frontier Trails Park from the City of Pembroke Pines and annex that land into the Town of Southwest Ranches, the owner of the property.

The act takes effect upon becoming law.

According to the Economic Impact Statement, this bill has no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Constitutional/Statutory Provisions Relating to Annexation¹

Section 2 (c), Art. VIII of the State Constitution provides that “[m]unicipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.” This provision authorizes the Legislature to annex unincorporated property into a municipality by special act. It also authorizes the Legislature to establish procedures in general law for the annexation of property.

The Legislature established local annexation procedures by general law in 1974, with the enactment of ch. 171, F. S., the “Municipal Annexation or Contraction Act.” This act describes the way in which property may be annexed or de-annexed by cities without legislative action. The purpose of the act is to set forth procedures for adjusting the boundaries of municipalities through annexations or contractions of corporate limits, and criteria for determining when annexations or contractions may take place so as to:

- ensure sound urban development and accommodation to growth;
- establish uniform legislative standards throughout the state for the adjustment of municipal boundaries;
- ensure the efficient provision of urban services to areas that become urban in character; and
- ensure that areas are not annexed unless municipal services can be provided to those areas.

Statutory Requirements for Annexation

Before local annexation procedures may begin, pursuant to s. 171.042, F.S., the governing body of the municipality must prepare a report containing plans for providing urban services to any area to be annexed. A copy of the report must be filed with the board of county commissioners where the municipality is located. This report must include appropriate maps, plans for extending municipal services, timetables and financing methodologies. It must certify that the area proposed to be annexed is appropriate for annexation because it meets the following standards and requirements described by s. 171.043, F.S.:

- The area to be annexed must be an unincorporated area that is contiguous to the boundary of the annexing municipality.²
- The area to be annexed must be reasonably compact.³

¹ The term “annexation” is defined in the Florida Statutes to mean “the adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality.” See, s. 171.031(1), F.S. For an annexation to be valid under ch. 171, F. S., the annexation must take place within the boundaries of a single county. See, s. 171.045, F.S.

² This means that a substantial part of the boundary of the area to be annexed has a common boundary with the municipality. There are specified exceptions for cases in which an area is separated from the city's boundary by a publicly owned county park, right-of-way or body of water.

³ Section 171.031(12), F.S., defines “compactness” as concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger areas in serpentine patterns. Any annexation proceeding in any county in the state is required to be designed in such a manner as to ensure that the area will be reasonably compact.

- No part of the area to be annexed may fall within the boundary of another incorporated municipality.
- Part or all of the land to be annexed must be developed for urban purposes.⁴
- Alternatively, if the proposed area is not developed for urban purposes, it can either border at least 60 percent of a developed area, or provide a necessary bridge between two urban areas for the extension of municipal services.

Annexed areas are declared to be subject to taxation (and existing indebtedness) for the current year on the effective date of the annexation, unless the annexation takes place after the municipal governing body levies such tax for that year. In the case of municipal contractions, the city and county must reach agreement on the transfer of indebtedness or property—the amount to be assumed, its fair value and the manner of transfer and financing.⁵

Types of Annexations

Voluntary Annexation

If the property owners of a reasonably compact, unincorporated area desire annexation into a contiguous municipality, they can initiate voluntary annexation proceedings. Section 171.044 (4), F. S., provides that the procedures for voluntary annexation are “supplemental to any other procedure provided by general law or special law.” The following process governs voluntary annexations in every county, except for those counties with charters providing an exclusive method for municipal annexation:

- submission of a petition—signed by all property owners in the area proposed to be annexed—to the municipal governing body; and
- adoption of an ordinance by the governing body of the municipality to annex the property after publication of a notice—which sets forth the proposed ordinance in full—at least once a week for two consecutive weeks.

The governing body of the municipality also must provide a copy of the notice to the board of county commissioners of the county where the municipality is located.

In addition, the annexation must not create enclaves. An enclave is: (a) any unincorporated, improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) any unincorporated, improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.⁶

Involuntary Annexation

A municipality may annex property where the property owners have not petitioned for annexation pursuant to s. 171.0413, F. S. This process is referred to as “involuntary” annexation. In general, the requirements for an involuntary annexation are:

- the adoption of an annexation ordinance by the annexing municipality's governing body;
- at least two advertised public hearings held by the governing body of the municipality prior to the adoption of the ordinance, with the first hearing on a weekday at least seven days after the first advertisement and the second hearing held on a weekday at least five days after the first advertisement;⁷ and

⁴ An area developed for urban purposes is defined as an area which meets any one of the following standards: (a) a total resident population equal to at least two persons per acre; (b) a total resident population equal to at least one person per acre, with at least 60 percent of subdivided lots one acre or less; or (c) at least 60 percent of the total lots used for urban purposes, with at least 60 percent of the total urban residential acreage divided into lots of five acres or less.

⁵ See, s. 171.061, F.S.

⁶ Section 171.031(13), F.S.

⁷ This new requirement was passed by the 1999 Legislature.

- submission of the ordinance to a vote of the registered electors of the area proposed for annexation once the governing body has adopted the ordinance.⁸

Any parcel of land which is owned by one individual, corporation or legal entity, or owned collectively by one or more individuals, corporations or legal entities, proposed to be annexed can not be severed, separated, divided or partitioned by the provisions of the ordinance, unless the owner of such property waives this requirement.

If there is a majority vote in favor of annexation in the area proposed to be annexed, the area becomes part of the city. If there is no majority vote, the area cannot be made the subject of another annexation proposal for two years from the date of the referendum.

If more than 70 percent of the land in an area proposed to be annexed is owned by individuals, corporations or legal entities which are not registered electors of such area, the area can not be annexed unless the owners of more than 50 percent of the land in such area consent to the annexation. This consent must be obtained by the parties proposing the annexation prior to the referendum.

If the area proposed to be annexed does not have any registered electors on the date the ordinance is finally adopted, a vote of electors of the area proposed to be annexed is not required. The area may not be annexed unless the owners of more than 50 percent of the parcels of land in the area proposed to be annexed consent to the annexation. If the governing body does not choose to hold a referendum of the annexing municipality, then the property owner consents must be obtained by the parties proposing the annexation prior to the final adoption of the ordinance.

Contraction Procedures

Section 171.051, F.S., provides that any municipality may initiate the contraction of municipal boundaries in the following manner:

- (1) The governing body proposes the contraction of municipal boundaries by ordinance, and provides an effective date for the contraction.
- (2) A petition of 15 percent of the qualified voters in an area desiring to be excluded from the municipal boundaries, filed with the clerk of the municipal governing body, may propose such an ordinance. The municipality to which such petition is directed must then undertake a study of the feasibility of such proposal and, within six months, either initiate proceedings, as provided in (1), above, or reject the petition, specifically stating the facts upon which the rejection is based.

After introduction, the contraction ordinance must be noticed at least once per week for two consecutive weeks in a newspaper of general circulation in the municipality. The notice must describe the area to be excluded, include a statement of findings to show that the area to be excluded fails to meet the criteria of s. 171.043, F.S., set the time and place of the meeting at which the ordinance will be considered, and advise that all parties affected may be heard.

If, at the meeting held for such purpose, a petition is filed and signed by at least 15 percent of the qualified voters resident in the area proposed for contraction requesting a referendum on the question, the governing body must, upon verification, paid for by the municipality, of the sufficiency of the petition, and before passing such ordinance, submit the question of contraction to a vote of the qualified voters of the area proposed for contraction, or the governing body may vote not to contract the municipal boundaries.

⁸ In 1999, the Florida Legislature removed the requirement of a dual referendum in specific circumstances. Previously, in addition to a vote by the electors in the proposed annexed area, the annexation ordinance was submitted to a separate vote of the registered electors of the annexing municipality if the total area annexed by a municipality during any one calendar year period cumulatively exceeded more than five percent of the total land area of the municipality or cumulatively exceeded more than five percent of the municipal population. The holding of a dual referendum is now at the discretion of the governing body of the annexing municipality.

The governing body also may call for a referendum on the question of contraction on its own volition and in the absence of a petition requesting a referendum. The referendum, if required, is held at the next regularly scheduled election, or, if approved by a majority of the municipal governing body, at a special election held prior to such election, but no sooner than 30 days after verification of the petition or passage of the resolution or ordinance calling for the referendum.

The municipal governing body must establish the date of election and publish notice of the referendum election at least once a week for the two consecutive weeks immediately prior to the election in a newspaper of general circulation in the area proposed to be excluded or in the municipality. Such notice must give the time and places for the election and a general description of the area to be excluded in the form of a map.

Ballots or mechanical voting devices shall offer the choices “for deannexation” and “against deannexation,” in that order. A majority vote “for deannexation” will cause the area proposed for exclusion to be excluded upon the effective date set in the contraction ordinance. A majority vote “against deannexation” prevents any part of the area proposed for exclusion from being the subject of a contraction ordinance for a period of two years from the date of the referendum election.

Effect of Annexation on an Area

Upon the effective date of an annexation, the area becomes subject to all laws, ordinances and regulations in force in the annexing municipality. An exception occurs pursuant to s. 171.062(2), F.S., in that if the area annexed was subject to a county land use plan and county zoning or subdivision regulations, these regulations remain in effect until the municipality adopts a comprehensive plan amendment that includes the annexed area. In contractions, excluded territory is immediately subject to county laws, ordinances and regulations.

Any changes in municipal boundaries require revision of the boundary section of the municipality’s charter. Such changes must be filed as a charter revision with the Department of State within 30 days of the annexation or contraction.⁹

Appeal of Annexation or Contraction

Affected persons who believe they will suffer material injury because of the failure of a city to comply with annexation or contraction laws as applied to their property can appeal the annexation ordinance. They may file a petition within 30 days following the passage of the ordinance with the circuit court for the county in which the municipality is located seeking the court’s review by certiorari. If an appeal is won, the petitioner is entitled to reasonable costs and attorney’s fees.¹⁰

Broward County Annexations

Broward County is located on Florida’s South Atlantic coast and consists of nearly 1,200 square miles and a population of approximately 1.3 million residents. Broward County currently contains 31 municipalities, the majority of which achieved their current corporate boundaries through a multitude of annexations.

In 1996, in cooperation with the Broward County Commission, the Broward County Legislative Delegation created the Ad Hoc Committee on Annexation Policy. The delegation charged this committee with the responsibility of developing and recommending policy to the Broward Legislative Delegation regarding the terms under which it would consider future annexations. The committee recommended that the annexation of all the remaining unincorporated areas of Broward County should be encouraged by the year 2010, and that unincorporated areas remaining after 2010 would be subject to annexation by the Florida Legislature. In 2001, this goal was changed to year 2005.

⁹ Section 171.091, F.S.

¹⁰ Section 171.081, F.S.

The Florida Legislature adopted a special act (ch. 96-542, L.O.F, as amended by ch. 99-447, L.O.F.), which requires that any annexation of unincorporated property within Broward County proposed to be accomplished pursuant to general law first must be considered at a public hearing conducted by the Broward County Legislative Delegation, pursuant to its adopted rules. The annexation is not effective until the 15th day of September following adjournment sine die of the next regular legislative session following the completion of all necessary procedures for annexation.

Annexations may also occur by special act of the Legislature. The Broward County Legislative Delegation sponsors several local annexation bills each year.

2001 Broward County Legislative Delegation's Ad Hoc Committee on Annexation

During the 2001 Legislative Session, House Bill 907 died in the House Committee on State Administration, and Senate Bill 2338 died in the Senate Committee on Rules and Calendar. These bills required the City of Pembroke Park, located in Broward County with a population of approximately 5,000 people, to annex unincorporated areas in South Central Broward County, including the areas of Carver Ranches, Miami Gardens, Utopia and Lake Forest. These areas have a population of approximately 15,000 people and, if added to Pembroke Park, would have quadrupled the city's population.

As a result of the opposition of the City of Pembroke Park to these annexation bills and the eventual disposition of the bills, the Broward County Legislative Delegation initiated a review of the remaining Broward annexations by establishing the 2001 Ad Hoc Committee on Annexation. Their stated mission was "...to facilitate the fair and comprehensive continuation of the 1995 Annexation Policy of Broward County with special consideration being given to each neighborhood and the responsibilities assumed by the annexing municipality with the cooperation of Broward County."

The Committee met six times during the summer of 2001, and agreed to the following 18 guidelines:

1. The annexation of all unincorporated areas in Broward County should take place by October 1, 2005. Any areas left unincorporated after that date would be subject to required annexation by the Florida Legislature.
2. All Broward county annexation bills should be combined into one comprehensive or omnibus bill in order to streamline the process.
3. An official unincorporated partnership committee would be established to identify community projects or issues of interest that could be collaboratively achieved. These projects or issues would become part of any interlocal agreement prior to annexation. This committee would be responsible for communications between the annexing city and the unincorporated area.
4. The geographic integrity, character and unique lifestyle of the different neighborhoods should be preserved.
5. Residents of areas being proposed for annexation should be informed of any new taxes or fees which would be imposed by the annexing municipality.
6. Cities should be creative in providing incentives to unincorporated areas to encourage annexation.
7. Unincorporated area residents should be given the right whenever possible and reasonable to choose which municipality to join, and the right to vote on annexation by referendum.
8. The practice of dual referenda should be discontinued.
9. Existing regional county facilities should remain unincorporated, unless the county and municipality in question agree to annexation.
10. A transition plan would be established to assist those county employees displaced by reason of annexation.
11. Infrastructure projects should be completed by the county as scheduled in the county's "Five Year Capital Improvement Program."
12. The county and prospecting annexing municipalities would execute interlocal agreements in regards to incomplete county infrastructure projects.

13. The practice of "cherry-picking" would end.¹¹
14. Commercial properties should not be stripped from neighborhoods from which they logically or geographically belong.
15. Nothing should preclude the use of deannexation, consolidation or incorporation as a means to ameliorate past actions.
16. All future legislative bills could include phase-in dates for infrastructure improvements and the communities to be annexed.
17. Whenever possible, annexation should achieve revenue neutrality for the annexing municipality.
18. With respect to municipal protocol, all correspondence regarding annexation would be directed to the mayor, elected officials and city managers.

The Broward County Legislative Delegation approved these recommendations/guidelines at their final public hearing held on August 23, 2001. As a result, the delegation came to the 2002 Legislature with a request to consider either an omnibus bill (HB 1027) or individual "stand-alone" bills addressing each individual annexation separately. The omnibus bill died in committee.

EFFECT OF PROPOSED CHANGES

HB 1585 provides for the annexation and deannexation of certain described lands within the municipal limits of the City of Pembroke Pines and the Town of Southwest Ranches in Broward County. The bill notes that approximately 30 acres of property known as the Laguna Isles Community Center and adjoining wetlands currently is located in the Town of Southwest Ranches, while the remaining area of the Laguna Isles community is located within the municipal limits of the City of Pembroke Pines. Also, the bill notes that approximately 30 acres of property known as the Frontier Trails Park is owned by the Town of Southwest Ranches, but currently part of the City of Pembroke Pines.

The provisions of the bill serve to deannex the Laguna Isles Community Center and its adjoining wetlands from the Town of Southwest Ranches, and annex this property into the City of Pembroke Pines so that the entire development is housed within one municipality. The bill also will deannex the Frontier Trails Park from the City of Pembroke Pines and annex that land into the Town of Southwest Ranches, the owner of the property.

Neither of these parcels is populated, and both cities have adopted resolutions supporting these actions.¹²

The act takes effect upon becoming law.

C. SECTION DIRECTORY:

Section 1: Provides the legal description for lands to be deannexed from the City of Pembroke Pines.

Section 2: Provides the legal description for lands to be deannexed from the Town of Southwest Ranches.

Section 3: Provides a legal description for lands to be annexed into the City of Pembroke Pines

Section 4: Provides a legal description for lands to be annexed into the Town of Southwest Ranches.

Section 5: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

¹¹ A city engages in cherry-picking when it seeks to annex only areas that will produce a positive tax cash flow.

¹² These documents are on file with the Local Government Council.

IF YES, WHEN? January 10, 2006

WHERE? The *Sun-Sentinel*, a daily newspaper published in Broward County.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

According to the Economic Impact Statement, this bill will have no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

SUN-SENTINEL
PUBLISHED DAILY
FORT LAUDERDALE, BROWARD COUNTY, FLORIDA
BOCA RATON, PALM BEACH COUNTY, FLORIDA
MIAMI, MIAMI DADE COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF BROWARD/PALM BEACH/MIAMI DADE
BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED

me WHO, ON OATH, SAYS THAT
HE/SHE IS A DULY AUTHORIZED REPRESENTATIVE OF THE CLASSIFIED
DEPARTMENT OF THE SUN-SENTINEL, DAILY NEWSPAPER PUBLISHED
IN BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA, AND THAT THE
ATTACHED COPY OF ADVERTISEMENT, BEING A:

NOTICE OF LEGISLATION

IN THE MATTER OF:

City of Pembroke Pines

IN THE CIRCUIT COURT, WAS PUBLISHED IN SAID NEWSPAPER IN THE
ISSUES OF:

1/10,1X

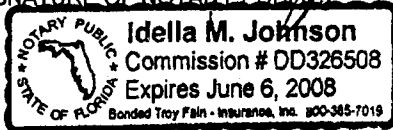
12666522

AFFIANT FURTHER SAYS THAT THE SAID SUN-SENTINEL IS A NEWSPAPER
PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA,
AND THAT THE SAID NEWSPAPER HAS HERETOFORE BEEN CONTINUOUSLY
PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA,
EACH DAY, AND HAS BEEN ENTERED AS SECOND CLASS MATTER AT THE
POST OFFICE IN FORT LAUDERDALE, IN SAID BROWARD COUNTY, FLORIDA,
FOR A PERIOD OF ONE YEAR NEXT PRECEDING THE FIRST PUBLICATION OF
ATTACHED COPY OF ADVERTISEMENT; AND AFFIANT FURTHER SAYS THAT
HE/SHE HAS NEITHER PAID, NOR PROMISED, ANY PERSON, FIRM, OR
CORPORATION, ANY DISCOUNT, REBATE, COMMISSION, OR REFUND, FOR THE
PURPOSE OF SECURING THIS ADVERTISEMENT FOR PUBLICATION IN SAID
NEWSPAPER.

me
(SIGNATURE OF AFFIANT)

SWORN TO AND SUBSCRIBED BEFORE ME
ON: 10-January-2006 A.D.

Idella M. Johnson
(SIGNATURE OF NOTARY PUBLIC)



(NAME OF NOTARY, TYPED, PRINTED, OR STAMPED)

PERSONALLY KNOWN ☒ OR

PRODUCED IDENTIFICATION _____

NOTICE OF LEGISLATION
Notice is hereby given
that the following bill will
be presented to the 2006
Legislative Session of the
Florida Legislature for
consideration and enact-
ment.
A bill to be entitled
An Act relating to Broward
County, Florida, providing
for annexation and de-an-
nexation of lands within
the municipal limits of the
City of Pembroke Pines
and the Town of South-
west Ranches; providing
an effective date.
BROWARD COUNTY LEGIS-
LATIVE DELEGATION
REPRESENTATIVE
ELEANOR SOBEL, CHAIR
CONTACT: Sandy Harris
(954-357-6555)
January 10, 2006

**HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION**

BILL #: HB 1585
SPONSOR(S): Rep. Eleanor Sobel
RELATING TO: Southwest Ranches Deannexation/Annexation, Broward County
(Indicate Area Affected (City, County, Special District) and Subject)
NAME OF DELEGATION: Broward Legislative Delegation
CONTACT PERSON: Sandy Harris
PHONE # and E-Mail: 922-9833 saharris@broward.org

I. House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. **Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.**

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES ☒ NO ☐

(2) Has a public hearing been held? YES ☒ NO ☐

Date hearing held: 2-28-06

Location: Broward County Governmental Center

(3) Was this bill formally approved by a majority of the delegation members? YES ☒ NO ☐ UNIT RULE ☐ UNANIMOUS ☐

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES ☒ NO ☐ DATE 1-10-06

Where? Sun-Sentinel County Broward County

Referendum in lieu of publication: YES ☐ NO ☒

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional taxation requirement been met?

YES ☐ NO ☐ NOT APPLICABLE ☒

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Eleanor Sobel 03/02/06
Delegation Chair (Original Signature) Date

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #:

HB 1585

SPONSOR(S):

Rep. Eleanor Sobel

RELATING TO:

Town of Southwest Ranches

[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures:

FY 06-07
-0-

FY 07-08
-0-

II. ANTICIPATED SOURCE(S) OF FUNDING:

Federal:

FY 06-07
-0-

FY 07-08
-0-

State:

-0-

-0-

Local:

-0-

-0-

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues:

FY 06-07
-0-

FY 07-08
-0-

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: No economic impact

Disadvantages: No economic impact

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

No impact

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

Review of tax roll

PREPARED BY:  _____ Date
[Must be signed by Preparer]

TITLE: Town Administrator

REPRESENTING: Town of Southwest Ranches

PHONE: (954-434-0008)

E-Mail Address: jcanada@swranches.org

HB 1585

2006

A bill to be entitled

An act relating to Broward County; providing for annexation and deannexation of certain described lands within the municipal limits of the City of Pembroke Pines and the Town of Southwest Ranches; providing an effective date.

WHEREAS, the approximately 30 acres of property known as the Laguna Isles Community Center and adjoining wetlands is currently located in the Town of Southwest Ranches, with the remaining area of the Laguna Isles community residing in the City of Pembroke Pines, and

WHEREAS, the approximately 30 acres of property known as the Frontier Trails Park is owned by the Town of Southwest Ranches, but currently resides in the City of Pembroke Pines, and both municipalities desire to return these properties to the appropriate municipality, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. The lands contained in the following legal description are deannexed from the City of Pembroke Pines, Broward County:

ALL OF THE PLAT OF "FRONTIER TRAILS", AS RECORDED IN PLAT BOOK 97, PAGE 8, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. SAID LANDS SITUATE IN THE CITY OF PEMBROKE PINES, BROWARD COUNTY, FLORIDA AND CONTAINING 30.057 ACRES, MORE OR LESS.

HB 1585

2006

29 Section 2. The lands contained in the following legal
30 description are deannexed from the Town of Southwest Ranches,
31 Broward County:

32 A PORTION OF PARCEL C, ACCORDING TO THE PLAT OF BIG
33 SKY NORTH RESIDENTIAL, AS RECORDED IN PLAT BOOK 168 AT
34 PAGE 24 OF THE PUBLIC RECORDS OF BROWARD COUNTY,
35 FLORIDA, TOGETHER WITH A PORTION OF THE RIGHT-OF-WAY
36 OF SHERIDAN STREET AS NOW LOCATED AND CONSTRUCTED, AND
37 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
38 BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL C;
39 THENCE RUN NORTH 01°46'07" WEST (ON A PLAT BEARING)
40 2231.07 FEET ALONG THE WEST BOUNDARY OF SAID PARCEL C,
41 TO AN INTERSECTION WITH THE NORTH BOUNDARY OF THAT
42 CERTAIN FPL EASEMENT AS DESCRIBED IN THE INSTRUMENT
43 FOUND IN OFFICIAL RECORDS BOOK 5429 AT PAGE 931 OF THE
44 PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE RUN
45 NORTH 89°53'13" EAST 615.03 FEET ALONG SAID NORTH
46 BOUNDARY, TO AN INTERSECTION WITH A LINE 15 FEET WEST
47 OF, AS MEASURED AT RIGHT ANGLES, AND PARALLEL WITH THE
48 EAST BOUNDARY OF SAID PARCEL C; THENCE RUN SOUTH
49 01°46'15" EAST 1478.21 FEET ALONG SAID PARALLEL LINE,
50 TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT;
51 THENCE ALONG SAID PARALLEL LINE, ON THE ARC OF SAID
52 CURVE TO THE RIGHT, HAVING A RADIUS OF 1485.00 FEET
53 AND A CENTRAL ANGLE OF 14°29'42" RUN SOUTHWESTERLY
54 375.68 FEET TO A POINT OF REVERSE CURVATURE; THENCE
55 ALONG SAID PARALLEL LINE, ON THE ARC OF A CURVE TO THE
56 LEFT, HAVING A RADIUS OF 1575.00 FEET AND A CENTRAL

57 ANGLE OF 12°36'11" RUN SOUTHWESTERLY 346.44 FEET;
58 THENCE RUN SOUTH 44°53'41" WEST 51.23 FEET ALONG SAID
59 PARALLEL LINE AND ITS EXTENSION TO AN INTERSECTION
60 WITH THE SOUTH BOUNDARY OF SAID PARCEL C; THENCE RUN
61 SOUTH 01°46'15" EAST 100.04 FEET TO AN INTERSECTION
62 WITH THE SOUTH BOUNDARY OF SECTION 1, TOWNSHIP 51
63 SOUTH, RANGE 39 EAST; THENCE RUN SOUTH 89°53'41" WEST
64 481.26 FEET ALONG SAID SOUTH BOUNDARY OF SECTION 1, TO
65 AN INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE
66 WEST BOUNDARY OF SAID PARCEL C; THENCE RUN NORTH
67 01°46'07" WEST 100.04 FEET ALONG SAID SOUTHERLY
68 EXTENSION TO THE POINT OF BEGINNING. SAID LANDS
69 SITUATE IN THE TOWN OF SOUTHWEST RANCHES, BROWARD
70 COUNTY, FLORIDA, AND CONTAINING 31.748 ACRES, MORE OR
71 LESS.

72 Section 3. The present corporate limits of the City of
73 Pembroke Pines, Broward County, are extended and enlarged so as
74 to include, in addition to the territory presently within its
75 corporate limits, the following:

76 A PORTION OF PARCEL C, ACCORDING TO THE PLAT OF BIG
77 SKY NORTH RESIDENTIAL, AS RECORDED IN PLAT BOOK 168 AT
78 PAGE 24 OF THE PUBLIC RECORDS OF BROWARD COUNTY,
79 FLORIDA, TOGETHER WITH A PORTION OF THE RIGHT-OF-WAY
80 OF SHERIDAN STREET AS NOW LOCATED AND CONSTRUCTED, AND
81 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
82 BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL C;
83 THENCE RUN NORTH 01°46'07" WEST (ON A PLAT BEARING)
84 2231.07 FEET ALONG THE WEST BOUNDARY OF SAID PARCEL C,

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85 TO AN INTERSECTION WITH THE NORTH BOUNDARY OF THAT
 86 CERTAIN FPL EASEMENT AS DESCRIBED IN THE INSTRUMENT
 87 FOUND IN OFFICIAL RECORDS BOOK 5429 AT PAGE 931 OF THE
 88 PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE RUN
 89 NORTH 89°53'13" EAST 615.03 FEET ALONG SAID NORTH
 90 BOUNDARY, TO AN INTERSECTION WITH A LINE 15 FEET WEST
 91 OF, AS MEASURED AT RIGHT ANGLES, AND PARALLEL WITH THE
 92 EAST BOUNDARY OF SAID PARCEL C; THENCE RUN SOUTH
 93 01°46'15" EAST 1478.21 FEET ALONG SAID PARALLEL LINE,
 94 TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT;
 95 THENCE ALONG SAID PARALLEL LINE, ON THE ARC OF SAID
 96 CURVE TO THE RIGHT, HAVING A RADIUS OF 1485.00 FEET
 97 AND A CENTRAL ANGLE OF 14°29'42" RUN SOUTHWESTERLY
 98 375.68 FEET TO A POINT OF REVERSE CURVATURE; THENCE
 99 ALONG SAID PARALLEL LINE, ON THE ARC OF A CURVE TO THE
 100 LEFT, HAVING A RADIUS OF 1575.00 FEET AND A CENTRAL
 101 ANGLE OF 12°36'11" RUN SOUTHWESTERLY 346.44 FEET;
 102 THENCE RUN SOUTH 44°53'41" WEST 51.23 FEET ALONG SAID
 103 PARALLEL LINE AND ITS EXTENSION TO AN INTERSECTION
 104 WITH THE SOUTH BOUNDARY OF SAID PARCEL C; THENCE RUN
 105 SOUTH 01°46'15" EAST 100.04 FEET TO AN INTERSECTION
 106 WITH THE SOUTH BOUNDARY OF SECTION 1, TOWNSHIP 51
 107 SOUTH, RANGE 39 EAST; THENCE RUN SOUTH 89°53'41" WEST
 108 481.26 FEET ALONG SAID SOUTH BOUNDARY OF SECTION 1, TO
 109 AN INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE
 110 WEST BOUNDARY OF SAID PARCEL C; THENCE RUN NORTH
 111 01°46'07" WEST 100.04 FEET ALONG SAID SOUTHERLY
 112 EXTENSION TO THE POINT OF BEGINNING. SAID LANDS

HB 1585

2006

113 SITUATE IN THE CITY OF PEMBROKE PINES, BROWARD COUNTY,
 114 FLORIDA, AND CONTAINING 31.748 ACRES, MORE OR LESS.
 115 Section 4. The present corporate limits of the Town of
 116 Southwest Ranches, Broward County, are extended and enlarged so
 117 as to include, in addition to the territory presently within its
 118 corporate limits, the following:
 119 ALL OF THE PLAT OF "FRONTIER TRAILS", AS RECORDED IN
 120 PLAT BOOK 97, PAGE 8, OF THE PUBLIC RECORDS OF BROWARD
 121 COUNTY, FLORIDA. SAID LANDS SITUATE IN THE TOWN OF
 122 SOUTHWEST RANCHES, BROWARD COUNTY, FLORIDA AND
 123 CONTAINING 30.057 ACRES, MORE OR LESS.
 124 Section 5. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS


BILL #: HB 1629

Gainesville-Alachua County Regional Airport Authority

SPONSOR(S): Jennings

TIED BILLS:

IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|-----------------------------|--------|----------------|---|
| 1) Local Government Council | | Smith T. L. S. | Hamby  |
| 2) Finance & Tax Committee | | | |
| 3) | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

The Gainesville-Alachua County Regional Airport Authority (Authority) is a dependent special district located in Alachua County. The Authority was created under ch. 86-469, L.O.F., which has been amended by subsequent special acts. The Authority has nine appointed board members who serve 3-year terms. The Authority has jurisdiction over operation, maintenance, and improvements to the airport and its facilities.

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority. The bill contains provisions which do not simply codify existing law, but amend the charter of the Authority, as follows:

- Deletes specified provisions relating to the Authority board membership, status of District, term limits of Authority members, certain powers and duties of the Authority, and a building restriction provision.
- Provides a list of Legislative findings and intent statements.
- Adds the following definitions: "Airport lands" and "Airport facility district."
- Declares the Authority lands and other real and personal property, easements, and privileges acquired and used by the Authority have been acquired and used for public and governmental purposes and as a matter of public necessity.
- States the Authority is an independent special district.
- States the Authority has exclusive jurisdiction, control, supervision, and management over all airports in the County except privately owned airports.
- Provides for subsequent appointments of members when their term limits expire or upon the effective date of this act, provides for a replacement if a member's term limit has expired.
- Provides for a 4-year term instead of a 3-year term and provides no member will serve more than two successive terms.
- Requires no traditional public notice for emergency meetings.
- Clarifies restrictions on previous board member transactions on business dealings, representing of business entities, and submission of proposals for doing business with the Authority.
- States no member, as an individual, may represent the Authority without being directed through a formal action of the governing board to do so.
- Provides the Authority has exclusive jurisdiction over the operation and maintenance of and improvements to airport lands and provides the Authority shall oversee the airport, consisting of airport lands for purposes of City of Gainesville land use regulations, which will govern items including, but not limited to, height, landscaping, sidewalks, and lighting.
- Provides for an alcoholic beverage license.
- Provides for a discrimination clause.

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1629.LGC.doc

DATE: 3/21/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S. and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of the statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows for the adoption of the codification schedule provided for in an October 3, 1997 memorandum issued by the Chair of the Committee on Community Affairs. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district. Additionally, the 2001 Legislature amended s. 189.429, F.S. to provide that reenactment of existing law pursuant to s. 189.429, F.S.: (1) shall not be construed to grant additional authority nor to supersede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

Since the enactment of ss. 189.429 and 191.015, F.S., 201 special districts (includes local bills that were vetoed or filed and did not pass the Legislature) have codified their charters.

Although the deadline for submission of a codified charter by all special districts was prior to the 2005 Legislative session, all special districts have not complied with this requirement, and proposed codification bills for other special districts have not been enacted by the Legislature or have been vetoed by the Governor. As a result, additional proposed codification bills are anticipated.

Gainesville-Alachua County Regional Airport Authority

The Gainesville-Alachua County Regional Airport Authority is a dependent special district located in Alachua County. The Authority was created under ch. 86-469, L.O.F., which has been amended by subsequent special acts. The Authority has nine appointed board members who serve 3-year terms. The Authority has jurisdiction over operation, maintenance, and improvements to the airport and its facilities. The Authority has authority to enter into contracts, lease the airport and its facilities, accept revenues from the operation of the airport, undertake capital projects, issue revenue bonds, and fix and collect fees and other charges for the use of the airport and its facilities. The Authority may also acquire land in the name of the City by eminent domain, appoint guards or police with full police powers and expend funds to advertise and promote the airport.

Changes to the Gainesville-Alachua County Regional Airport Authority Charter

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is

not to be construed as a grant of additional authority. The exclusive charter of the Authority is recreated by this bill.

The bill contains provisions which do not simply codify existing law, but amend the charter of the Authority, as follows:

- Deletes specified provisions relating to the Authority board membership, status of District¹, terms of Authority members, certain powers and duties of the Authority, and a building restriction provision.
- Provides a list of Legislative findings, which include the following:
 - The proper operation of a publicly owned or operated airport in the county is essential to the welfare of the people of the Gainesville-Alachua County area, the state, and the people of the state.
 - A publicly owned or operated airport in the county establishes a vital transportation link between the state and the economic systems of the nation and the world and enables the state to enjoy and provide the benefits of an international tourist and commercial center.
 - The economic validity and stability of a publicly owned or operated airport in the county is a matter of statewide importance.
 - The policy of this state is to promote the development of commerce and tourism and to secure for the state's residents the benefits of those activities conducted in the state.
 - The proper operation of a publicly owned or operated airport in the county is essential to the welfare of the state and its people, and the Legislature recognizes and affirms such operation as a governmental function to be discharged in furtherance of the policy of securing the benefits of commerce and tourism for the state and its people.
- Provides a list of Legislative intent statements, including:
 - The Authority comply with federal law regarding expenditure of federal moneys.
 - This act not be construed as impairing or infringing upon any rights, privileges, or benefits enjoyed by any employee of the Authority who is so employed on the effective date of this act.
 - The members and employees of the authority comply with the code of ethics provisions under part III of chapter 112, F.S.
 - This act provide an additional, alternative, and complete method for the exercise of the powers granted and authorized by this act and be regarded as supplemental to powers conferred by other laws and not as a derogation of any powers now existing.
 - The Authority manage airport facilities and grant airport concessions to further the development of commerce and tourism in or affecting the Gainesville-Alachua County area and the state. In managing its facilities and granting concessions for services to the public, the Authority shall promote the development of commerce and tourism by:
 - Securing a diversity of airport services.
 - Avoiding wasteful duplication of such services.
 - Securing for the users of the airport safe, courteous, and quality service.
 - Limiting or prohibiting business competition that is destructive to the promotion of commerce and tourism in the state.
 - Allocating limited airport resources to promote such ends.
 - Fostering Florida's image as a commercial and tourism center.
- Adds the following definitions: "Airport lands" and "Airport facility district."
- Declares the Authority lands and other real and personal property, easements, and privileges acquired and used by the Authority have been acquired and used for public and governmental purposes and as a matter of public necessity.
- States the Authority is an independent special district.

¹ See ch. 86-469, L.O.F. § 3; ch. 95-457, L.O.F. § 1. The Authority is listed as an independent district on the 2006 Special District Information Database, <http://www.floridaspecialdistricts.org/OfficialList/report.asp>.

- States the Authority has exclusive jurisdiction, control, supervision, and management over all airports in the County except privately owned airports.
- Provides for subsequent appointments of members when their term limits expire or upon the effective date of this act, provides for a replacement if a member's term limit has expired.
- Provides for a 4-year term instead of a 3-year term and provides no member will serve more than two successive terms.
- Requires no traditional public notice for emergency meetings.
- Clarifies restrictions on previous board member transactions on business dealings, representing of business entities, and submission of proposals for doing business with the Authority.
- States no member, as an individual, may represent the Authority without being directed through a formal action of the governing board to do so.
- Provides the Authority has exclusive jurisdiction over the operation and maintenance of and improvements to airport lands and provides the Authority shall oversee the airport, consisting of airport lands for purposes of City of Gainesville land use regulations, which will govern items including, but not limited to, height, landscaping, sidewalks, and lighting.
- Provides for an alcoholic beverage license.
- Provides for a discrimination clause prohibiting:
 - (1) the authority and its lessees, including successors in interest, shall not because of race, color, sex, religion, national origin, age, disability, or sexual orientation of any individual refuse to hire or employ, or bar or discharge from employment, such individual or to otherwise discriminate against such individual with respect to compensation, hire, tenure, terms, conditions, or privileges of employment.
 - (2) No person on the grounds of race, color, sex, religion, national origin, age, disability, or sexual orientation shall be excluded from the participation in, denied the benefits of, or otherwise subjected to discrimination in the use of leased premises of the authority.
 - (3) In furnishing services or materials, or in the construction of any improvements, no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination with respect thereto.
 - (4) There is no right to apply to the court for relief on account of any order, requirement, decision, determination, or action of the authority under this section unless there has been an appeal to the authority.

Charter of the Authority

This bill recreates and reenacts the Authority's charter as follows:

- Section 1. Provides for a short title.
- Section 2. Provides Legislative findings and intent.
- Section 3. Provides definitions for "Airport", "Airport facilities", "Airport lands", "Airport facility district", "Authority", "Authorized project", "Board of county commissioners", "Bond", "City", "County", "Person", "Revenue bonds", and "Refunding bonds."²
- Section 4. Recreates the Gainesville-Alachua County Regional Airport.³
- Section 5. Provides for the Authority's governing board; provides the board will consist of nine members who are residents within the city, the county, or a county contiguous to Alachua County; provides members will not receive compensation for their services; provides no member will serve on the Authority's board and hold any publicly elected office in the state at the same time; provides for

² See generally ch. 86-469, L.O.F. § 2, ch. 89-433, L.O.F. § 1, ch. 95-457, L.O.F. § 1.

³ See generally ch. 86-469, L.O.F. § 3, ch. 95-457, L.O.F. § 1.

subsequent appointments of the board members; provides for replacement of board members; provides for 4-year terms; and provides for vacancies.⁴

Section 6: Provides for the organization of the board; provides for term limits of the officers; provides for meetings; provides for notice of a meeting; provides for emergency meetings; and provides for a quorum.⁵

Section 7. Provides for restrictions⁶ as follows:

(1) No person who has transacted business with the Authority shall be eligible for appointment to the Authority until 3 years after the last transaction. No person who has served on the Authority shall be eligible to transact business with the Authority or be employed directly or indirectly by an entity transacting business with the Authority until 3 years after the date of termination of membership. "Transactions" include all business dealings, representation of business entities, and submission of proposals for doing business with the Authority either for oneself or as an employee of, agent for, or consultant to any other person or legal entity. However, nothing in this paragraph shall be construed as prohibiting an appointed member from purchasing supplies or services from any fixed-base operator or tenant at the airport or Airport Industrial Park or for renting individual aircraft hangars or tie-downs offered to the general public and owned by the Authority.

(2) No member, officer, agent, or employee of the Authority, either for himself or herself or as agent for anyone else, or as a stockholder or owner in any other legal entity, shall participate in or benefit directly or indirectly from any sale, purchase, lease, franchise, contract, or other transaction entered into by the Authority or the city. The provisions of this subsection shall be cumulative to any general laws of the state that may from time to time be applicable to members, officers, agents, or employees of the Authority and that require the disclosure of, or prohibit, conflicts of interest.

(3) No member, as an individual, may represent the Authority, speak for the Authority, or speak on behalf of the Authority without being directed through a formal action of the governing board to do so.

Section 8. Provides for the powers of the Board of Directors⁷, including the power to:

1) The Authority shall have exclusive jurisdiction over the operation and maintenance and improvements to airport lands. Further, the Authority oversees the airport, consisting of airport lands for purposes of City of Gainesville land use regulations, which govern items including, but not limited to, height, landscaping, sidewalks, and lighting, and shall:

(a) Approve, file with the clerk, and pay any surety bond required of any member or of any employee of the Authority.

(b) Exclusively control, supervise, and manage all airports in the county and each municipality, except any airport owned, controlled, or operated by a private person.

(c) Advertise for sealed bids when required by law; however, the Authority may reject all bids and re-advertise or select a single item from any bid.

(d) Adopt before October 1 of each year an annual budget prepared by the chief executive officer, which includes an estimate of all revenues and anticipated expenditures for the ensuing fiscal year.

⁴ See generally ch. 86-469, L.O.F. § 3, ch. 95-457, L.O.F. § 1.

⁵ See generally ch. 86-469, L.O.F. § 3, ch. 95-457, L.O.F. § 1.

⁶ See generally ch. 86-469, L.O.F. § 3, ch. 95-457, L.O.F. § 1.

⁷ See generally ch. 86-469, L.O.F. § 4, ch. 89-433, L.O.F. § 2, ch. 95-457, L.O.F. § 1.

- (e) Require in all bond documents that moneys derived from such bonds be paid to or upon order of the Authority.
 - (f) Have the Authority's finances audited in the same manner as other independent special districts are audited.
- (2) The Authority is authorized to:
- (a) Rely on the provisions of this act, without reference to other laws, in exercising its powers.
 - (b) Appoint or employ and constitute its own airport guards or police officers or contract with the city, county, or any agency of the state to provide law enforcement services and protection through its duly sworn officers, and all officers have full power of arrest to prevent or abate the commission of an offense against the ordinances of the city or county, the laws of this state, or the laws of the United States when any such offense or threatened offense occurs on any airport lands.
 - (c) Construct and maintain terminal buildings, causeways, roadways, and bridges for approach to or connecting with the airport.
 - (d) Require the secretary-treasurer and other officers or employees of the Authority to execute an adequate surety bond in a penal sum fixed by the Authority conditioned on the faithful performance of the duties of the office or employment.
 - (e) Establish positions, duties, and a pay plan and employ, pay, provide benefits for, promote, discipline, and terminate personnel, including a chief executive officer who shall be responsible for the day-to-day administration, management, and operation of the Authority in accordance with policy established by the members of the Authority and perform other duties as authorized by the members.
 - (f) By policy or resolution, authorize the chief executive officer to perform any of the powers of the Authority in whole or in part and with whatever other limitations the Authority may impose, provided that the authorization does not result in an invalid exercise of delegated legislative authority as defined in general law.
 - (g) Employ or contract with technical and professional experts necessary to assist the Authority in carrying out or exercising any powers granted by this act.
 - (h) Reimburse for all travel expenses incurred while on business for the Authority, upon requisition, any member, the Authority's attorneys, the chief executive officer, and any employee of the Authority traveling under the direction of the chief executive officer or the chief executive officer's designee in accordance with Authority policies.
 - (i) Create, appoint, and prescribe the duties of any committee.
 - (j) Sue and be sued.
 - (k) Adopt, use, and alter a corporate seal.
 - (l) Publish advertisements.
 - (m) Waive advertisement when the Authority determines an emergency exists and supplies and materials must be immediately acquired by the Authority.
 - (n) Negotiate and enter into contracts, agreements, exclusive or limited agreements, and cooperation agreements of any kind necessary for the Authority to fulfill the purposes of this act.
 - (o) Include contract specifications maximizing the employment of persons whose protected group has been underutilized in the past.
 - (p) Enter into exclusive or limited agreements with a single operator or a limited number of operators. The Authority shall grant exclusive or limited agreements to eliminate business competition by rule or policy whenever the Authority determines, in consideration of the factors set forth in this paragraph that any such agreement is necessary to further the purposes

of this act. Before entering into any exclusive or limited agreement, the Authority must, under authority expressly delegated by the state, determine the necessity for an exclusive or limited agreement to further the policies and objectives stated in this act, which include public safety, public convenience, quality of service, the need to conserve airport space, the need to avoid duplication of services, the impact on the environment or facilities of the airport as an essential commercial and tourism service center, and the need to avoid destructive competition that may impair the quality of airport services to the public, lead to uncertainty, disruption, or instability in rendering such services, or detract from the Gainesville-Alachua County area and the state's attractiveness as a center of tourism and commerce. In making its determination, the Authority shall take evidence or make findings of fact and establish policies it deems necessary. Nothing in this paragraph shall excuse the Authority from complying with applicable state or local requirements for competitive bidding or public hearings that are required before awarding or entering into any contract or other agreement.

(q) Provide for the manual execution of any instrument on behalf of the Authority by the signature of the chair or vice chair and attested to by the secretary or the assistant secretary or, if delegated by the members to do so, the chief executive officer or any other Authority personnel to whom authority has been delegated, or by signer's facsimile signature in accordance with the Uniform Facsimile Signature of Public Officials Act.

(r) Purchase and sell equipment, supplies, and services required for Authority purposes.

(s) Sell, lease, transfer, dispose of, or grant a lesser interest in any Authority properties.

(t) Dispose of tangible personal property in accordance with chapter 274, F.S.

(u) Grant concessions.

(v) Advertise, promote, and encourage the use and expansion of facilities under the Authority's jurisdiction.

(w) Enact airport zoning regulations in accordance with chapter 333, F.S., to ensure the safe operation of airports under the Authority's jurisdiction; however, any airport zoning regulations may not affect the zoning use regulations imposed by the county or any municipality.

(x) Acquire, own, construct, install, maintain, and operate Authority facilities and real property by purchase, gift, devise, lease, or any other means, including eminent domain in accordance with chapters 73 and 74, F.S. For the purposes of making surveys and examinations incidental to any condemnation proceedings, the Authority may lawfully enter any land, doing no unnecessary damage. The Authority may take possession of property to be acquired by condemnation at any time after filing a petition describing the property in condemnation proceedings as provided in general law. The Authority is not precluded from abandoning the condemnation of any such property in any case where possession has not been taken.

(y) Reimburse the owner of any structure for which the Authority may require removal, relocation, or reconstruction located in, on, under, or across any private property, public street, highway, or other public or private places for the estimated or actual expense of the removal, relocation, or reconstruction.

(z) Supplement and coordinate in design and operation air navigation facilities with those established and operated by the federal and state governments.

- (aa) Request the county or any municipality to convey to the Authority the fee simple title to any county-owned or municipality-owned airport or other property needed for airport purposes.
- (bb) Upon determining that any airport or part of any airport under the Authority's jurisdiction but owned by a county, municipality, or other governmental agency is no longer required for Authority purposes, relinquish jurisdiction, control, supervision, and management over that airport property or that part of any airport property. However, the consent and approval of any revenue bondholders must first be obtained and necessary authorizations or approvals received from federal agencies regulating airports.
- (cc) Expend revenues for the cost of investigating, surveying, planning, acquiring, establishing, constructing, enlarging, improving, equipping, and erecting Authority facilities by appropriation of revenues or wholly or partly from the proceeds of bonds of the Authority. The term "cost" includes awards in condemnation proceedings, rentals when an acquisition is by lease, and amounts paid to utility companies for relocation of their wires, poles, and other facilities.
- (dd) Incur expenses as provided in the Authority's annual budget and any amended budget.
- (ee) Assess against and collect from the owner or operator of each airplane using any Authority facility a landing fee or service charge sufficient to cover the cost of the service provided, which cost may include the liquidation of bonds or other indebtedness for construction and improvement.
- (ff) Accept federal, state, and any other public or private moneys, grants, contributions, or loans for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of Authority facilities, or for any other lawful purpose.
- (gg) Fix, alter, charge, establish, and collect rates, fees, rentals, and other charges for the services of Authority facilities at reasonable and uniform rates.
- (hh) Apply for, hold, and periodically transfer alcoholic beverage licenses as provided by this act.
- (ii) Adopt and amend rules, regulations, and policies reasonably necessary for the implementation of this act.
- (jj) By resolution, fix and enforce penalties for the violation of this act or a rule, regulation, or policy adopted in accordance with this act.
- (kk) Amend the budget after its adoption.
- (ll) Receive, deposit, secure, and pay out moneys as provided by this act.
- (mm) Designate a depository or depositories that is qualified as a public depository under section 280.04, F.S., and thereafter establish and open an account or accounts into which revenues collected are deposited and from which expenditures are made.
- (nn) Establish and deposit into and expend moneys from a surplus fund by using funds that may remain unexpended at the end of the fiscal year and may be set aside in a separate fund to be known as the Capital Improvement Fund and accumulated and expended from year to year solely for the purpose of building and constructing permanent improvements, replacements, alterations, buildings, and other structures, including runways, taxi strips, and aprons.
- (oo) Except as otherwise provided in this act, by resolution borrow money and issue bonds in the manner and within the limitation prescribed by general law for the issuance and authorization of bonds; however, any bonds issued by the Authority must have a maturity date not exceeding 40 years from the date of issuance, must be self-liquidating or otherwise

payable from revenues of the Authority, must be payable semiannually, and not be a lien against the general taxing powers of the county or any municipality.

(pp) Enter into any deeds of trust, indentures, or other agreements with any bank or trust company as security for Authority bonds, and assign and pledge any or all of the Authority's revenues. Such deeds of trust, indentures, or other agreements may contain provisions customary in such instruments or as authorized by the Authority.

(qq) Secure the payment of bonds or any part thereof by pledging all or any part of Authority revenues and provide for the security of the bonds and the rights and remedies of the bondholders.

(rr) Pending the preparation of definitive bonds, issue certificates or temporary bonds to the purchaser of bonds.

(ss) Transact the business of the Authority and exercise all powers necessarily incidental to the exercise of the general and special powers granted in this act and under any other law.

(tt) Exercise all powers of a local agency granted pursuant to part II of chapter 159, F.S., and to a governmental unit granted pursuant to part VII of chapter 159, F.S.

(uu) Do all acts and things necessary or convenient for the promotion of Authority business and the general welfare of the Authority.

- Section 9. Provides for the budget; provides for the fiscal year; provides for a public hearing; and provides for budget amendments.⁸
- Section 10. Provides for the relationship between the Authority and the City and County.⁹
- Section 11. Provides for the title to the airport land.¹⁰
- Section 12. Authorizes issuance of bonds; provides purposes of bonds; and provides procedures.¹¹
- Section 13. Provides for bondholder rights and remedies.¹²
- Section 14. Provides a covenant of the state provision between the Authority and the Federal Government.¹³
- Section 15. Provides for an alcoholic beverage license.
- Section 16. Provides for purchasing and the award of contracts.
- Section 17. Provides for the exemption of property from taxation; provides facilities owned or operated by the District under the provisions of this act constitute public property; provides when the facilities are used for governmental purposes, the board will not be required to pay any taxes or assessments on any facilities or parts.
- Section 18. Provides for a discrimination clause.
- Section 19. Provides for a litigation provision.¹⁴

⁸ See generally ch. 86-469, L.O.F. § 5, ch. 95-457, L.O.F. § 1.

⁹ See ch. 86-469, L.O.F. § 7, ch. 95-457, L.O.F. § 1.

¹⁰ See ch. 86-469, L.O.F. § 8, ch. 95-457, L.O.F. § 1.

¹¹ See generally ch. 86-469, L.O.F. § 9, ch. 95-457, L.O.F. § 1.

¹² See generally ch. 86-469, L.O.F. § 10, ch. 95-457, L.O.F. § 1.

¹³ See generally ch. 86-469, L.O.F. § 10, ch. 95-457, L.O.F. § 1.

¹⁴ See generally ch. 86-469, L.O.F. § 13, ch. 95-457, L.O.F. § 1.

Section 20. Provides a severability clause.

C. SECTION DIRECTORY:

- Section 1: Provides that the reenactment of existing law in this bill may not be construed as a grant of additional authority; provides legislative intent.
- Section 2: Codifies, reenacts, amends and repeals chapters 86-469, 89-433, and 95-457, L.O.F.
- Section 3: Recreates and reenacts the charter of the Authority.
- Section 4: Repeals chapters 86-469, 89-433, and 95-457, L.O.F.
- Section 5: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? January 25, 2006.

WHERE? *The Gainesville Sun*, Gainesville, Alachua County, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

EXEMPTIONS FROM AD VALOREM TAXATION

Section 17 of section 3 of the bill provides:

Exemption of property from taxation. The exercise of the powers by the board conferred in this act constitutes the performance of government functions. Facilities owned or operated by the district under the provisions of this act constitute public property. When such facilities are used for governmental purposes, the board shall not be required to pay any taxes or assessments upon any such facilities or parts thereof.

Property owned by governmental entities is subject to ad valorem taxation unless immune or exempt, and such exemptions are strictly construed against party claiming them. Immunity from taxation precludes the power to tax, while an exemption from taxation presupposes the existence of the power to tax but the power is limited by a constitutional or statutory provision. *Orange State Oil Co. v. Amos*, 139 So.2d 707 (Fla. 1930). The Legislature is without authority to grant an exemption from taxes where the exemption does not have a constitutional basis. *Sebring Airport Authority v. McIntyre*, 783 So.2d 238 (Fla. 2001).

Special districts are not immune from taxation. Therefore, property owned by special districts is taxable unless the Legislature enacts an exemption from taxation that is consistent with the Florida Constitution. Section 189.403(1), F.S., provides that special districts are treated as municipalities for purposes of s. 196.199(1), F.S., which exempts from ad valorem taxation property owned by a municipality and used for "governmental, municipal, or public purposes". Accordingly, property owned by a municipality or special district is entitled to exemption only if used for a governmental or public purpose.

If a private entity leases government owned property from an exempt governmental entity, such as a special district, the actual use of the property determines whether a valid exemption from ad valorem taxation continues to apply. If public property is leased to a private entity, but is not used for a "public purpose", the fee interest in the property is taxable. The "public purpose" standard applicable in tax exemption cases is the "governmental-governmental" standard under which property leased to private entities for "governmental-proprietary" activities is not tax exempt. *Sebring Airport Authority v. McIntyre*, 783 So.2d 238 (Fla. 2001). Non-exempt "governmental-proprietary" use occurs when a nongovernmental lessee utilizes public property for proprietary and for-profit aims to promote the comfort, convenience, safety and happiness of citizens. Conversely, exempt "governmental-governmental" use occurs when a lease of public property concerns the administration of some phase of government. It should be noted that the leasehold interest in leased public property may be subject to the intangibles tax regardless of whether the leased property itself is subject to ad valorem taxation. See *Capitol City Country Club v. Tucker*, 448 So.2d 613 (Fla. 1993).

B. RULE-MAKING AUTHORITY:

This bill allows the District to adopt and amend rules, regulations, and policies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exception to General Law

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill because the bill grants an exemption to general law which exempts the airport authority from the procedure of obtaining beverage licenses.¹⁵

Drafting Issues

Lines 831 – 844 should be removed from the bill because the language pertains to a mobile home park recreation district.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

¹⁵ Chapters 561 – 565, F.S.

AFFIDAVIT OF PUBLICATION

The Gainesville Sun
Published – Daily
Gainesville, Alachua County, Florida

STATE OF FLORIDA
COUNTY OF ALACHUA


Before the undersigned, a Notary Public of Said County and State, Ernest Blake, III, who on oath says that he is Legal Advertising Coordinator of THE GAINESVILLE SUN, a daily newspaper published at Gainesville, in Alachua County, Florida; that the attached copy of advertisement, being a notice in the matter of

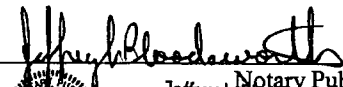
NOTICE OF INTENT TO SEEK LEGISLATION TO WHOM IT MAY CONCERN:
Notice is hereby given of intent to apply to the 2006 Legislature for passage of an act relating to the Gainesville-Alachua County Regional Airport Authority, amending the 1995 Act (95-457, La

was published in said newspaper in the issues of:

1/25 Lx

Affiant further says that the said THE GAINESVILLE SUN is a daily newspaper published at Gainesville, in said Alachua County, Florida, and that the said newspaper has heretofore been continuously published in said Alachua County, Florida, daily, and has been entered as second class mail matter at the post office in Gainesville in said Alachua County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the person of securing this advertisement for publication in the said newspaper.


Sworn to and subscribed before me this 25th day of January, A.D., 20 06


Notary Public
Jeffrey L. Bloodworth
MY COMMISSION # DD159436 EXPIRES
October 20, 2006
(Print, Type or Stamp Name of Notary Public)

My commission expires 20 day of Oct, 2006

Ad #: A000120953

NOTICE OF INTENT TO SEEK LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2006 Legislature for passage of an act relating to the Gainesville-Alachua County Regional Airport Authority, amending the 1995 Act (95-457, Laws of Florida), revising provisions of the current legislation that are no longer applicable, removing inconsistencies and redundancies, improving clarity, reflecting the requirements of standard business for an independent special district, adding a provision for four-year board member terms, clarifying the City Commission continues to appoint five members, and further defining and stipulating bonding rights and responsibilities.

29436, 1/25/06
#A000120953

**HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION**

BILL #: 1629
SPONSOR(S): Jennings
RELATING TO: City of Gainesville Airport Codification
(Indicate Area Affected (City, County, Special District) and Subject)
NAME OF DELEGATION: Alachua County
CONTACT PERSON: Sharon Spann (Rep. Jennings)
PHONE # and E-Mail: 488-5794 / Sharon.Spann@my.floridahouse.gov

I. House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. **Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.**

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES ☒ NO ☐

(2) Has a public hearing been held? YES ☒ NO ☐

Date hearing held: Dec. 14, 2005 & Jan. 25, 2006

Location: Gainesville, FL & Tallahassee, FL

(3) Was this bill formally approved by a majority of the delegation members? YES ☒ NO ☐ UNIT RULE ☐ UNANIMOUS ☒

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES ☒ NO ☐ DATE Jan. 25, 2006

Where? Gainesville Sun County Alachua

Referendum in lieu of publication: YES ☐ NO ☐

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional taxation requirement been met?

YES ☐ NO ☐ NOT APPLICABLE ☒

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.


Delegation Chair (Original Signature) 03/06/06 Date

HOUSE OF REPRESENTATIVES
2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: 1629
SPONSOR(S): Jennings
RELATING TO: City of Gainesville Airport Codification
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

FY 06-07 FY 07-08

Expenditures: None

II. ANTICIPATED SOURCE(S) OF FUNDING:

FY 06-07 FY 07-08

Federal: None

State: None

Local: None

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

FY 06-07 FY 07-08

Revenues: None

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: None

Disadvantages: None

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR
EMPLOYMENT:

None

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF
DATA]:

None

PREPARED BY:



[Must be signed by Preparer]

1-31-06

Date

TITLE:

Chief Executive Officer

REPRESENTING:

Gainesville Regional Airport

PHONE: (352-373-0249)

E-Mail Address: rick.crider@flygainesville.com

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A bill to be entitled

An act relating to the Gainesville-Alachua County Regional Airport Authority; codifying, reenacting, amending, and repealing chapters 86-469, 89-433, and 95-457, Laws of Florida, relating to the authority; providing a short title; providing legislative findings and intent; providing definitions; providing purpose of the authority; providing for membership, organization, restrictions, and powers and duties of the authority; requiring a budget; specifying relationship between the authority and local government; providing for conveyance of land to the authority; authorizing issuance of bonds; providing bondholder rights and remedies; specifying covenant of the state; authorizing an alcoholic beverage license; providing for purchasing and award of contracts; exempting property from taxation; prohibiting discrimination; providing that the authority may sue and be sued; providing for severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The reenactment of existing law in this act shall not be construed as a grant of additional authority to or to supersede the authority of any entity pursuant to law. Exceptions to law contained in any special act that are reenacted pursuant to this act shall continue to apply.

(2) The reenactment of existing law in this act shall not be construed to modify, amend, or alter any covenants,

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contracts, or other obligations of any district with respect to
bonded indebtedness. Nothing pertaining to the reenactment of
existing law in this act shall be construed to affect the
ability of any district to levy and collect taxes, assessments,
fees, or charges for the purpose of redeeming or servicing
bonded indebtedness of the district.

Section 2. Chapters 86-469, 89-433, and 95-457, Laws of
Florida, are amended, codified, reenacted, and repealed as
provided in this act.

Section 3. The charter for the Gainesville-Alachua County
Regional Airport Authority is re-created and reenacted to read:

Section 1. Short title.--This act may be cited as the
"Gainesville-Alachua County Regional Airport Authority Act."

Section 2. Legislative findings and intent.--

(1) The Legislature finds that:

(a) The proper operation of a publicly owned or operated
airport in the county is essential to the welfare of the people
of the Gainesville-Alachua County area, the state, and the
people of the state.

(b) A publicly owned or operated airport in the county
establishes a vital transportation link between the state and
the economic systems of the nation and the world and enables the
state to enjoy and provide the benefits of an international
tourist and commercial center.

(c) The economic validity and stability of a publicly
owned or operated airport in the county is a matter of statewide
importance.

56 (d) The policy of this state is to promote the development
57 of commerce and tourism and to secure for the state's residents
58 the benefits of those activities conducted in the state.

59 (e) The proper operation of a publicly owned or operated
60 airport in the county is essential to the welfare of the state
61 and its people, and the Legislature recognizes and affirms such
62 operation as a governmental function to be discharged in
63 furtherance of the policy of securing the benefits of commerce
64 and tourism for the state and its people.

65 (2) It is the intent of the Legislature that:

66 (a) The authority comply with federal law regarding
67 expenditure of federal moneys.

68 (b) This act not be construed as impairing or infringing
69 upon any rights, privileges, or benefits enjoyed by any employee
70 of the authority who is so employed on the effective date of
71 this act.

72 (c) The members and employees of the authority comply with
73 the code of ethics provisions under part III of chapter 112,
74 Florida Statutes.

75 (d) This act provide an additional, alternative, and
76 complete method for the exercise of the powers granted and
77 authorized by this act and be regarded as supplemental to powers
78 conferred by other laws and not as a derogation of any powers
79 now existing.

80 (e) The authority manage airport facilities and grant
81 airport concessions to further the development of commerce and
82 tourism in or affecting the Gainesville-Alachua County area and
83 the state. In managing its facilities and granting concessions

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for services to the public, the authority shall promote the development of commerce and tourism by:

1. Securing a diversity of airport services.

2. Avoiding wasteful duplication of such services.

3. Securing for the users of the airport safe, courteous, and quality service.

4. Limiting or prohibiting business competition that is destructive to the promotion of commerce and tourism in the state.

5. Allocating limited airport resources to promote such ends.

6. Fostering Florida's image as a commercial and tourism center.

Section 3. Definitions.--As used in this act, unless the context otherwise requires, the term:

(1) "Airport" means any area of land or water designed for landing and takeoff of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft or for receiving and discharging passengers or cargo, including all appurtenant areas used or suitable for use for airport buildings or other airport facilities and all appurtenant rights-of-way at the area now known, and which may hereafter be known, as the Gainesville Regional Airport.

(2) "Airport facilities" means airport facilities at the Gainesville Regional Airport and used for the transportation of people and cargo, including, but not limited to, runways, taxiways, taxi lanes, aprons, hangars, shops, terminals, buildings, parking lots, roadways, and all other facilities

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112 necessary or desirable for landing, takeoff, operating,
 113 servicing, repairing, and parking of aircraft, and the unloading
 114 and handling of passengers, mail, and express and freight cargo,
 115 together with all necessary appurtenances and equipment and all
 116 properties, rights, easements, and franchises relating thereto
 117 and deemed necessary or convenient by the authority in
 118 connection therewith. This shall also include the area known on
 119 the effective date of this act as the "Airport Industrial Park"
 120 and all appurtenant facilities related thereto.

121 (3) "Airport lands" means any area of land or water
 122 described on the Gainesville Regional Airport Property Map as
 123 presented to the Federal Aviation Administration, which may be
 124 amended from time to time, and used for operation of the
 125 airport, for protection of the airport, or for aeronautical or
 126 nonaeronautical revenue generated for the benefit of the
 127 airport.

128 (4) "Airport facility district" means the district
 129 described in the City of Gainesville land use regulations that
 130 recognizes the unique conditions pertaining to Gainesville
 131 Regional Airport and provides a means of balancing conformance
 132 to applicable state and federal regulations with local concerns
 133 and specific needs of the airport.

134 (5) "Authority" means the Gainesville-Alachua County
 135 Regional Airport Authority created herein.

136 (6) "Authorized project" means an undertaking, including a
 137 capital project, approved by the authority and includes all
 138 property rights, easements, and franchises related thereto and
 139 deemed necessary or convenient for the construction,

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acquisition, or operation thereof and embraces any capital expenditure that is made for a public purpose, including the refunding of any bonded indebtedness that may be outstanding on any existing project that is to be improved by a new project.

(7) "Board of county commissioners" means the Board of County Commissioners of the County of Alachua.

(8) "Bond" includes bonds, debentures, notes, certificates of indebtedness, mortgage certificates, or other obligations or evidences of indebtedness of any type or character.

(9) "City" means the City of Gainesville.

(10) "City commission" means the City Commission of the City of Gainesville.

(11) "County" means the County of Alachua.

(12) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.

(13) "Revenue bonds" means obligations of the authority that are payable from revenues derived from sources other than ad valorem taxes on real or tangible personal property and that do not pledge the property, credit, or general tax revenue of the authority or the city.

(14) "Refunding bonds" means bonds issued to refinance outstanding bonds of any type and the interest and redemption premium thereon. Refunding bonds shall be issuable and payable in the same manner as the refinanced bonds, except that no approval by the electorate is required unless required by the State Constitution.

Section 4. Creation; purpose.--

(1) The Gainesville-Alachua County Regional Airport is created, and the powers granted by this act are declared to be public and governmental functions exercised for public purposes and are matters of public necessity. Lands and other real and personal property, easements, and privileges acquired and used by the authority are declared to have been acquired for and used for public and governmental purposes and as a matter of public necessity. The authority is a public body corporate and is an independent special district.

(2) The authority has exclusive jurisdiction, control, supervision, and management over all airports in Alachua County except any airport owned, controlled, and operated by a private person. Said jurisdiction, control, supervision, and management are in the best interest of the county and each municipality.

Section 5. Membership of the authority.--

(1) The powers of the authority are vested in its members. There shall be nine members. No member shall receive any compensation for services as a member. As a condition of eligibility for appointment and to hold office, each member shall reside within the city, the county, or a county contiguous to Alachua County. No person shall serve as a member of the authority and at the same time hold any publicly elected office in the state.

(2) Upon expiration of the terms of office of those members of the authority upon the effective date of this act, subsequent appointments shall be made as follows:

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(a) On or before the date a respective member's term is to expire, the Governor shall replace by appointment any of the three members appointed by the Governor.

(b) On or before the date the member's term is to expire, the board of county commissioners shall replace by appointment the member appointed by the board.

(c) On or before the date a respective member's term is to expire, the city commission shall replace by appointment any of the remaining five members appointed by the commission.

(3) If, upon expiration of a member's term of office, an appointing entity fails to replace that member and the member is willing to continue to serve, the member with the expired term shall continue to serve until a replacement is appointed.

(4) The term of any member appointed before the effective date of this act shall expire on July 31 of the year such member's term was scheduled to expire. No member shall serve more than two successive terms.

(5) All members appointed after the effective date of this act shall serve 4-year terms of office, beginning on August 1 and expiring on July 31 of the appropriate years.

(6) Except as otherwise provided herein, vacancies in office shall be filled for the remainder of the term by the appropriate appointing entity in the same manner as set forth in subsection (2). Except as provided in subsection (3), a vacant position shall remain vacant until a successor has been appointed by the appropriate entity.

(7) A member may be removed by his or her appointing entity upon grounds constituting misfeasance, neglect of duty,

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incompetence, or permanent inability to perform official duties.
Conviction of a felony shall automatically remove a member. The
unexcused absence from three consecutive regular meetings of the
authority shall be deemed neglect of duty, without limiting the
meaning of the term "neglect of duty."

Section 6. Organization; meetings; notice; quorum.--A
chair, vice chair, and secretary-treasurer shall be chosen by
and from the authority membership. The chair, vice chair, and
secretary-treasurer shall each serve a term of office of 1 year,
and no member may hold the same office for more than 2
consecutive terms.

(1) The authority shall meet at the call of the chair, at
the request of three or more of its members, and at such other
times as may be prescribed by rule of the authority.

(2) The authority shall give notice of all meetings at
least 48 hours prior thereto, which notice shall be published in
a newspaper in general circulation in Alachua County, and shall
include agenda items whenever such items involve leasing of any
airport property. Emergency meetings shall be called only when
there is an immediate danger to the public health, safety, or
welfare, and do not require traditional public notice.

(3) The presence of five members is required to constitute
a quorum, and the affirmative vote of a majority of the members
present and eligible to vote, but no fewer than four of the
members present and eligible to vote, is required for any action
or recommendation by the authority.

Section 7. Restrictions.--

(1) No person who has transacted business with the

251 authority shall be eligible for appointment to the authority
252 until 3 years after the last transaction. No person who has
253 served on the authority shall be eligible to transact business
254 with the authority or be employed directly or indirectly by an
255 entity transacting business with the authority until 3 years
256 after the date of termination of membership. "Transactions"
257 include all business dealings, representation of business
258 entities, and submission of proposals for doing business with
259 the authority either for oneself or as an employee of, agent
260 for, or consultant to any other person or legal entity. However,
261 nothing in this paragraph shall be construed as prohibiting an
262 appointed member from purchasing supplies or services from any
263 fixed-base operator or tenant at the airport or Airport
264 Industrial Park or for renting individual aircraft hangars or
265 tie-downs offered to the general public and owned by the
266 authority.

267 (2) No member, officer, agent, or employee of the
268 authority, either for himself or herself or as agent for anyone
269 else, or as a stockholder or owner in any other legal entity,
270 shall participate in or benefit directly or indirectly from any
271 sale, purchase, lease, franchise, contract, or other transaction
272 entered into by the authority or the city. The provisions of
273 this subsection shall be cumulative to any general laws of the
274 state that may from time to time be applicable to members,
275 officers, agents, or employees of the authority and that require
276 the disclosure of, or prohibit, conflicts of interest.

277 (3) No member, as an individual, may represent the
278 authority, speak for the authority, or speak on behalf of the

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authority without being directed through a formal action of the governing board to do so.

Section 8. Powers and duties.--

(1) The authority shall have exclusive jurisdiction over the operation and maintenance of and improvements to airport lands. Further, the authority shall oversee the Airport Facility District, consisting of airport lands for purposes of City of Gainesville land use regulations, which shall govern items including, but not limited to, height, landscaping, sidewalks, and lighting, and shall:

(a) Approve, file with the clerk, and pay any surety bond required of any member or of any employee of the authority.

(b) Exclusively control, supervise, and manage all airports in the county and each municipality, except any airport owned, controlled, or operated by a private person.

(c) Advertise for sealed bids when required by law; however, the authority may reject all bids and readvertise or select a single item from any bid as further provided in this act.

(d) Adopt before October 1 of each year an annual budget prepared by the chief executive officer, which must include an estimate of all revenues and anticipated expenditures for the ensuing fiscal year.

(e) Require in all bond documents that moneys derived from such bonds be paid to or upon order of the authority.

(f) Have the authority's finances audited in the same manner as other independent special districts are audited.

(2) The authority is authorized to:

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(a) Rely on the provisions of this act, without reference to other laws, in exercising its powers.

(b) Appoint or employ and constitute its own airport guards or police officers or contract with the city, county, or any agency of the state to provide law enforcement services and protection through its duly sworn officers, and all such officers shall have full power of arrest to prevent or abate the commission of an offense against the ordinances of the city or county, the laws of this state, or the laws of the United States when any such offense or threatened offense occurs upon any airport lands.

(c) Construct and maintain terminal buildings, causeways, roadways, and bridges for approach to or connecting with the airport.

(d) Require the secretary-treasurer and other officers or employees of the authority to execute an adequate surety bond in a penal sum fixed by the authority conditioned upon the faithful performance of the duties of the office or employment.

(e) Establish positions, duties, and a pay plan and employ, pay, provide benefits for, promote, discipline, and terminate personnel, including a chief executive officer who shall be responsible for the day-to-day administration, management, and operation of the authority in accordance with policy established by the members of the authority and perform other duties as may be authorized by the members.

(f) By policy or resolution, authorize the chief executive officer to perform any of the powers of the authority in whole or in part and with whatever other limitations the authority may

335 impose, provided that said authorization does not result in an
336 invalid exercise of delegated legislative authority as defined
337 in general law.

338 (g) Employ or contract with technical and professional
339 experts necessary to assist the authority in carrying out or
340 exercising any powers granted by this act.

341 (h) Reimburse for all travel expenses incurred while on
342 business for the authority, upon requisition, any member, the
343 authority's attorneys, the chief executive officer, and any
344 employee of the authority traveling under the direction of the
345 chief executive officer or the chief executive officer's
346 designee in accordance with authority policies.

347 (i) Create, appoint, and prescribe the duties of any
348 committee.

349 (j) Sue and be sued.

350 (k) Adopt, use, and alter a corporate seal.

351 (l) Publish advertisements.

352 (m) Waive advertisement when the authority determines an
353 emergency exists and supplies and materials must be immediately
354 acquired by the authority.

355 (n) Negotiate and enter into contracts, agreements,
356 exclusive or limited agreements, and cooperation agreements of
357 any kind necessary for the authority to fulfill the purposes of
358 this act.

359 (o) Include contract specifications maximizing the
360 employment of persons whose protected group has been
361 underutilized in the past.

362 (p) Enter into exclusive or limited agreements with a
363 single operator or a limited number of operators. The authority
364 shall grant exclusive or limited agreements to eliminate
365 business competition by rule or policy whenever the authority
366 determines, in consideration of the factors set forth in this
367 paragraph that any such agreement is necessary to further the
368 purposes of this act. Before entering into any exclusive or
369 limited agreement, the authority shall, under authority
370 expressly delegated by the state, determine the necessity for
371 such an exclusive or limited agreement to further the policies
372 and objectives stated in this act, which include public safety,
373 public convenience, quality of service, the need to conserve
374 airport space, the need to avoid duplication of services, the
375 impact on the environment or facilities of the airport as an
376 essential commercial and tourism service center, and the need to
377 avoid destructive competition that may impair the quality of
378 airport services to the public, lead to uncertainty, disruption,
379 or instability in rendering such services, or detract from the
380 Gainesville-Alachua County area and the state's attractiveness
381 as a center of tourism and commerce. In making its
382 determination, the authority shall take evidence or make
383 findings of fact and establish such policies it deems necessary.
384 Nothing in this paragraph shall excuse the authority from
385 complying with applicable state or local requirements for
386 competitive bidding or public hearings that may be required
387 before awarding or entering into any contract or other
388 agreement.

389 (g) Provide for the manual execution of any instrument on
390 behalf of the authority by the signature of the chair or vice
391 chair and attested to by the secretary or the assistant
392 secretary or, if delegated by the members to do so, the chief
393 executive officer or any other authority personnel to whom
394 authority has been delegated, or by signer's facsimile signature
395 in accordance with the Uniform Facsimile Signature of Public
396 Officials Act.

397 (r) Purchase and sell equipment, supplies, and services
398 required for authority purposes.

399 (s) Sell, lease, transfer, dispose of, or grant a lesser
400 interest in any authority properties.

401 (t) Dispose of tangible personal property in accordance
402 with chapter 274, Florida Statutes.

403 (u) Grant concessions.

404 (v) Advertise, promote, and encourage the use and
405 expansion of facilities under the authority's jurisdiction.

406 (w) Enact airport zoning regulations in accordance with
407 chapter 333, Florida Statutes, to ensure the safe operation of
408 airports under the authority's jurisdiction; however, any such
409 airport zoning regulations may not affect the zoning use
410 regulations imposed by the county or any municipality.

411 (x) Acquire, own, construct, install, maintain, and
412 operate authority facilities and real property by purchase,
413 gift, devise, lease, or any other means, including eminent
414 domain in accordance with chapters 73 and 74, Florida Statutes.
415 For the purposes of making surveys and examinations incidental
416 to any condemnation proceedings, the authority may lawfully

417 enter upon any land, doing no unnecessary damage. The authority
418 may take possession of property to be acquired by condemnation
419 at any time after filing a petition describing the property in
420 condemnation proceedings as provided in general law. The
421 authority is not precluded from abandoning the condemnation of
422 any such property in any case where possession has not been
423 taken.

424 (y) Reimburse the owner of any structure for which the
425 authority may require removal, relocation, or reconstruction
426 located in, on, under, or across any private property, public
427 street, highway, or other public or private places for the
428 estimated or actual expense of the removal, relocation, or
429 reconstruction.

430 (z) Supplement and coordinate in design and operation air
431 navigation facilities with those established and operated by the
432 federal and state governments.

433 (aa) Request the county or any municipality to convey to
434 the authority the fee simple title to any county-owned or
435 municipality-owned airport or other property needed for airport
436 purposes.

437 (bb) Upon determining that any airport or part of any
438 airport under the authority's jurisdiction but owned by a
439 county, municipality, or other governmental agency is no longer
440 required for authority purposes, relinquish jurisdiction,
441 control, supervision, and management over that airport property
442 or that part of any airport property. However, the consent and
443 approval of any revenue bondholders must first be obtained and

444 necessary authorizations or approvals received from federal
445 agencies regulating airports.

446 (cc) Expend revenues for the cost of investigating,
447 surveying, planning, acquiring, establishing, constructing,
448 enlarging, improving, equipping, and erecting authority
449 facilities by appropriation of revenues or wholly or partly from
450 the proceeds of bonds of the authority. The term "cost" includes
451 awards in condemnation proceedings, rentals when an acquisition
452 is by lease, and amounts paid to utility companies for
453 relocation of their wires, poles, and other facilities.

454 (dd) Incur expenses as provided in the authority's annual
455 budget and any amended budget.

456 (ee) Assess against and collect from the owner or operator
457 of each airplane using any authority facility a landing fee or
458 service charge sufficient to cover the cost of the service
459 provided, which cost may include the liquidation of bonds or
460 other indebtedness for construction and improvement.

461 (ff) Accept federal, state, and any other public or
462 private moneys, grants, contributions, or loans for the
463 acquisition, construction, enlargement, improvement,
464 maintenance, equipment, or operation of authority facilities, or
465 for any other lawful purpose.

466 (gg) Fix, alter, charge, establish, and collect rates,
467 fees, rentals, and other charges for the services of authority
468 facilities at reasonable and uniform rates.

469 (hh) Apply for, hold, and periodically transfer alcoholic
470 beverage licenses as provided by this act.

471 (ii) Adopt and amend rules, regulations, and policies
472 reasonably necessary for the implementation of this act.

473 (jj) By resolution, fix and enforce penalties for the
474 violation of this act or a rule, regulation, or policy adopted
475 in accordance with this act.

476 (kk) Amend the budget after its adoption.

477 (ll) Receive, deposit, secure, and pay out moneys as
478 provided by this act.

479 (mm) Designate a depository or depositories that is
480 qualified as a public depository under section 280.04, Florida
481 Statutes, and thereafter establish and open an account or
482 accounts into which revenues collected are deposited and from
483 which expenditures are made.

484 (nn) Establish and deposit into and expend moneys from a
485 surplus fund by using funds that may remain unexpended at the
486 end of the fiscal year and may be set aside in a separate fund
487 to be known as the Capital Improvement Fund and accumulated and
488 expended from year to year solely for the purpose of building
489 and constructing permanent improvements, replacements,
490 alterations, buildings, and other structures, including runways,
491 taxi strips, and aprons.

492 (oo) Except as otherwise provided in this act, by
493 resolution borrow money and issue bonds in the manner and within
494 the limitation prescribed by general law for the issuance and
495 authorization of bonds; however, any bonds issued by the
496 authority shall have a maturity date not exceeding 40 years from
497 the date of issuance, shall be self-liquidating or otherwise
498 payable from revenues of the authority, shall be payable

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semiannually, and shall not be a lien against the general taxing powers of the county or any municipality.

(pp) Enter into any deeds of trust, indentures, or other agreements with any bank or trust company as security for authority bonds, and assign and pledge any or all of the authority's revenues. Such deeds of trust, indentures, or other agreements may contain provisions customary in such instruments or as authorized by the authority.

(qq) Secure the payment of bonds or any part thereof by pledging all or any part of authority revenues and provide for the security of the bonds and the rights and remedies of the bondholders.

(rr) Pending the preparation of definitive bonds, issue certificates or temporary bonds to the purchaser of bonds.

(ss) Transact the business of the authority and exercise all powers necessarily incidental to the exercise of the general and special powers granted in this act and under any other law.

(tt) Exercise all powers of a local agency granted pursuant to part II of chapter 159, Florida Statutes, and to a governmental unit granted pursuant to part VII of chapter 159, Florida Statutes.

(uu) Do all acts and things necessary or convenient for the promotion of authority business and the general welfare of the authority.

Section 9. Budget.--The fiscal year for the authority shall be October 1 through September 30. For each fiscal year after the effective date of this act:

(1) Prior to preparation of the annual budget as provided

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527 in subsection (2), the authority shall develop an annual
 528 proposed budget consisting of the elements described in
 529 subsection (2), which shall be presented for a public hearing.
 530 The public hearing shall be noticed as a budget hearing.

531 (2) Following the public hearing conducted pursuant to
 532 subsection (1), the authority shall prepare an annual budget
 533 consisting of an operating revenue and operating expense
 534 account, capital outlay account, and capital project account for
 535 its operations in the ensuing fiscal year. At the time the
 536 authority prepares its annual budget, it shall adopt a
 537 resolution determining and finding the estimated amounts to be
 538 expended by the authority in the ensuing year in each account,
 539 exclusive of any bonds or other indebtedness of the authority,
 540 used to acquire, establish, construct, enlarge, operate, and
 541 maintain the airport and airport facilities and other facilities
 542 related thereto or for any other corporate purpose of the
 543 authority.

544 (3) The authority may, at any time within a fiscal year,
 545 adopt budget amendments.

546 (4) All anticipated revenues to be derived from the
 547 operation of the airport and airport facilities shall be
 548 included in the budget, provided that any amounts of money,
 549 anticipated or actual, including funds in the authority's budget
 550 for the preceding fiscal year that remain unencumbered and
 551 unexpended from the revenue derived under the budget for the
 552 preceding fiscal year, may, by resolution of the authority, be
 553 set aside in a separate fund to be entitled the "Renewal and
 554 Replacement Fund" and accumulated in said fund from year to year

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for the purpose of purchasing real and tangible personal property and for building and constructing permanent improvements, replacements, alterations, buildings, and other structures, including, but not limited to, runways, taxi strips, and aprons. Such funds may be disbursed from time to time out of the Renewal and Replacement Fund upon proper resolution of the authority solely for the payment of the costs of purchasing real and tangible personal property and for building and constructing permanent improvements, replacements, alterations, buildings, and other structures, including, but not limited to, runways, taxi strips, and aprons.

(5) The authority shall adopt budget procedures to establish the direct and indirect costs of operating and maintaining the airport and airport facilities, as well as the direct income derived therefrom. However, the budget of the authority shall not include the maintenance and upkeep of navigational aids as performed and funded directly by the Federal Aviation Administration.

(6) The city, the county and the county's other political subdivisions may, by loan or grant, fund budget deficits of the authority and all may guarantee bonds issued by the authority.

Section 10. Relationship between the authority and the city and county.--The authority shall have the power and responsibility to operate the airport and airport facilities in a manner consistent with applicable federal, state, county, and city law. The city has no power to operate or maintain the airport and airport facilities, but applicable building codes of the city shall apply to all construction upon the airport except

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to the extent that different state or federal requirements are expressly applicable and except to the extent that the authority or the airport has been made exempt by state or federal law from any requirement of the city. All construction upon the airport shall be subject to inspection by the city on behalf of the state, and the city inspectors may ensure compliance with applicable state regulation of such construction in addition to applicable city regulations.

Section 11. Title to airport land.--The city may convey title to the land comprising the Gainesville Regional Airport to the authority for no monetary consideration. Nothing in this act shall be construed to impair the obligations of any original agreements with the Federal Government or of any agreement between the city or any of its agencies and fixed-base operators of the airport entered into as of the effective date of this act.

Section 12. Bonds.--

(1) Bonds may be issued to finance one or more or a combination of authority facilities. Subject to any prior rights of bondholders, proceeds of such bonds may be pledged and used to pay the costs of the acquisition, construction, or improvement of one or more or a combination of authority facilities or to refund bonds previously issued for such purpose. Revenues of the authority, regardless of the airport project or other source from which they are derived, may be pledged to pay bonds issued to finance the cost of authority facilities and to pay refunding bonds and ancillary costs associated with such financings.

(2) Except as otherwise provided by this act, security, payment provisions, contracts, terms, and other attributes of bonds issued by the authority shall be specified by the authority by initial or amendatory resolution, trust agreement, or other bond documentation.

(3) The bonds shall be executed by manual or facsimile signature by the officers the authority has designated, provided that such bonds bear at least one signature that is manually executed to the extent required by general law. Any coupons attached to the bonds shall bear the facsimile signature or signatures of the officer or officers designated by the authority. If any member or officer whose manual or facsimile signature appears on any bond or coupon ceases to be a member or an officer before the delivery of the bonds, such signature shall be valid and sufficient for all purposes as if that member or officer had remained in office until delivery. The bonds shall bear the seal of the authority affixed as provided by resolution.

(4) Bonds may be sold either at public or private sale at such price or prices determined by the authority.

(5) Any bonds issued under this act are negotiable instruments and investment securities under chapter 678, Florida Statutes.

(6) The pledge by the authority of its revenues to the payment of its bonds by the terms of a resolution or through any deed of trust, indenture, or other agreement creates a valid and binding lien thereon and a prior perfected security interest therein from the time the pledge is made. Any revenues so

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pledged are immediately subject to a lien of such pledge without
any physical delivery thereof or further act, and the lien of
any such pledge shall be valid and binding against all parties
having claims of any kind against the authority, irrespective of
whether the parties have notice thereof. No resolution, deed of
trust, indenture, or other agreement by which a pledge is
created need be filed or recorded, except in the records of the
authority, and notice is not required to be given to any obligor
of such revenues. No filings under the Uniform Commercial Code
are required in order to perfect any pledge granted.

(7) No approval of the qualified electors or qualified
freeholders of the state or of the county may be required for
the issuance of any bonds by the authority unless such approval
is required by the provisions of the Constitution of the State
of Florida.

(8) Notwithstanding any other provision of law, bonds
issued by the authority are legal investments for banks, savings
banks, trustees, executors, all other fiduciaries, and all
state, municipal, and other public funds. Any such bonds are
securities eligible for deposit for the securing of all state,
municipal, and other public funds.

Section 13. Bondholder rights and remedies.--

(1) The authority may do nothing for the benefit of the
authority that will impair the security of the bondholders of
the authority or violate any agreement with the bondholders.

(a) In addition to any other rights and remedies lawfully
granted to bondholders, unless otherwise provided by the
resolution or resolutions providing for the issuance of bonds,

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667 or by any deed of trust, indenture, or other agreement under
 668 which the bonds have been issued, holders of 25 percent or such
 669 other percentage as may be specified in any deed of trust,
 670 indenture, or other agreement under which the bonds were issued
 671 in the aggregate principal amount of the bonds then outstanding
 672 are entitled to appoint a trustee, upon notice as provided in
 673 this paragraph and for the purpose provided in this act, if the
 674 authority defaults in the payment of principal or interest for a
 675 period of 30 days after either becomes due, whether at maturity
 676 or upon call for redemption, or if the authority fails to comply
 677 with the provisions of this act, its resolution or resolutions,
 678 or the requirements of any deed of trust, indenture, or other
 679 agreement under which the bonds were issued. Any such
 680 bondholders must first give written notice of their intention to
 681 appoint a trustee to the authority by certified United States
 682 mail addressed to the chair of the authority at the principal
 683 office of the authority and to the holders of all other bonds
 684 then outstanding at their addresses shown on the registration
 685 books maintained by the authority or the bond registrar. For
 686 purposes of this paragraph, any trustee appointed to serve in
 687 that capacity pursuant to a deed of trust, trust agreement,
 688 indenture, or other document by which bonds of the authority
 689 have been issued is deemed to have been selected by the holders
 690 of bonds issued under that instrument. If more than one trustee
 691 is designated, either by two or more written instruments or
 692 pursuant to the provisions of this paragraph, the group of
 693 bondholders owning the highest percentage of bonds outstanding
 694 has the right to designate the single trustee to serve in that

695 capacity for purposes of this act.

696 (b) Unless otherwise provided in any instrument under
697 which such bonds were issued, any trustee, whether appointed by
698 bondholders in accordance with the provisions of paragraph (a)
699 or in accordance with the terms of any deed of trust, indenture,
700 or other agreement, may, upon written request of the holders of
701 25 percent or such other percentage as may be specified in any
702 deed of trust, indenture, or other agreement under which the
703 bonds were issued in the aggregate principal amount of the bonds
704 then outstanding, may, in any court of competent jurisdiction,
705 in his, her, or its own name:

706 1. By mandamus or other suit, action, or proceeding at law
707 or in equity, enforce all rights of the bondholders, including
708 the right to require the authority to fix, establish, maintain,
709 collect, and charge rates, fees, rentals, and other charges
710 adequate to carry out any agreement as to, or pledge of, the
711 revenues of the authority, and to require the authority to carry
712 out any other agreements with or for the benefit of the
713 bondholders, and to perform its and their duties under this act.

714 2. Bring suit upon the bonds.

715 3. By action or suit in equity, require the authority to
716 account as if it were the trustee of an express trust for the
717 bondholders.

718 4. By action or suit in equity, enjoin any acts or things
719 which may be unlawful or in violation of the rights of the
720 bondholders.

721 5. By written notice given to the authority in the same
722 manner as provided in paragraph (a), declare all bonds due and

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payable and, if all defaults are made good and with the consent of the holders of 25 percent or such other percentage as may be specified in any deed of trust, indenture, or other agreement under which the bonds were issued in the aggregate principal amount of the bonds then outstanding, annul such declaration and its consequences.

(2) Unless otherwise provided in any bond resolution, deed of trust, indenture, or other agreement under which bonds were issued, if a default continues for more than 60 days after written notice to the authority, any trustee when appointed as provided in paragraph (1)(a), or acting under a deed of trust, indenture, or other agreement, and whether or not all bonds have been declared due and payable, upon the happening of any of the events of default specified in paragraph (1)(a), shall be entitled as of right to appoint a receiver. The receiver may enter and take possession of any of the authority facilities for which the authority is in default as provided in paragraph (1)(a), or any part or parts thereof, and the revenues which are or may be applicable to the payment of the bonds in default and operate and maintain the same for and on behalf of and in the name of the authority and the bondholders. The receiver shall collect revenues in the same manner as the authority might and shall use and apply the funds in accordance with the applicable bond documents or, if not so specified, into a separate account as directed by the court.

(3) Nothing in this section or any other section of this act authorizes any receiver appointed to sell, assign, mortgage, or otherwise dispose of any assets of the authority. The powers

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751 of such receiver are limited to the operation and maintenance of
752 the authority facilities as the court may direct, in the name of
753 and for and on behalf of the authority and the bondholders. No
754 holder of bonds or any court or any trustee is empowered by this
755 act to sell, assign, mortgage, or otherwise dispose of any
756 assets of whatever kind or character belonging to the authority.

757 Section 14. Covenant of the state.--The State of Florida
758 pledges to, and agrees with, the Federal Government and any
759 person, firm, or corporation subscribing to or acquiring the
760 bonds to be issued by the authority for the construction,
761 acquisition, extension, improvement, or enlargement of projects,
762 or any part thereof, that the state will not limit or alter the
763 rights hereby vested in the authority until all bonds at any
764 time issued, together with the interest therein, are fully paid
765 and discharged or until provision is made therefor. The State of
766 Florida further pledges to, and agrees with, the Federal
767 Government that in the event the Federal Government constructs
768 or contributes any funds for the construction, acquisition,
769 extension, improvement, or enlargement of said projects, or any
770 part thereof, the state will not alter or limit the rights and
771 powers of the authority in any manner that would be inconsistent
772 with the continued maintenance and operation of the projects, or
773 any part thereof, or the improvement thereof, or that would be
774 inconsistent with the due performance of any agreements between
775 the authority and the Federal Government, and the authority
776 shall continue to have and may exercise all powers herein
777 granted, so long as the exercise of the powers are necessary or
778 desirable to carry out the purposes of this act and the purposes

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of the Federal Government in the construction, acquisition,
improvement, or enlargement of said projects or any part
thereof.

Section 15. Alcoholic beverage license.--

(1) One beverage license as provided under section 561.17,
Florida Statutes, shall be issued to the authority or other
governmental agency operating Gainesville-Alachua County
Regional Airport as provided in this section.

(a) The beverage license shall be issued upon the written
or printed application for licenses to conduct such business,
made to the Division of Alcoholic Beverages and Tobacco of the
Department of Business Regulation, stating the character of the
business to be engaged in, the address of the building in which
the establishment sought to be licensed is or will be located,
and the kind of license as defined in chapter 561, Florida
Statutes, that the applicant desires. The application shall be
in the name of the authority or other governmental agency
operating Gainesville-Alachua County Regional Airport and when
issued shall be issued in the name of such applicant. The
applicant shall pay to the division the license fees for the
kind of license that is desired.

(b) Each license is renewable as provided by general law.
Each beverage license shall be for the term and subject to the
same privileges or renewal as provided in sections 561.26 and
561.27, Florida Statutes.

(c) Any business operated under any beverage license shall
be operated only by a lessee of the restaurants and cocktail
lounge or cocktail lounges or bars in the airlines terminal,

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administration building, or hotel at the airport to whom the
 license may be transferred. The authority or governmental agency
 operating Gainesville-Alachua County Regional Airport and each
 authorized lessee shall make application to the division for the
 transfer of the license to the lessee, and the application shall
 be approved by the division if it meets the applicable
 requirements of law. Upon termination of a lease for any reason,
 the lessee shall immediately notify the division to retransfer
 the beverage licenses to the authority or the governmental
 agency operating Gainesville-Alachua County Regional Airport.
 Upon failure of a lessee to notify the division, the authority
 or the governmental agency operating Gainesville-Alachua County
 Regional Airport shall immediately request the division in
 writing to transfer the license back to the authority or other
 governmental agency operating Gainesville-Alachua County
 Regional Airport, which may then transfer it to another
 authorized lessee. Thereafter, the beverage license may be
 transferred to any new lessee or the restaurants and cocktail
 lounge, cocktail lounges, or bars upon the same terms and
 conditions. Any alcoholic beverage license issued in accordance
 with this section is the property of the authority or the
 governmental agency operating Gainesville-Alachua County
 Regional Airport, subject to transfer as provided by this
 section.

(2) The Division of Alcoholic Beverages and Tobacco of the
 Department of Business and Professional Regulation may issue a
 special alcoholic beverage license for a mobile home park
 recreation district operating, within Brevard County, a

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835 recreational facilities complex. The license shall be valid only
836 in and for a facility within the complex that is owned and
837 operated by the mobile home park recreation district. The
838 license shall allow the sale and service of alcoholic beverages
839 for consumption only on the licensed premises of the designated
840 facility.

841 (3) This section does not preclude persons operating on
842 property of the authority from acquiring an alcoholic beverage
843 license for use on its premises pursuant to general law and the
844 rules of the division.

845 Section 16. Purchasing and award of contracts.--Purchasing
846 and award of contracts shall be consistent with the authority's
847 purchasing policy and Florida statutes.

848 Section 17. Exemption of property from taxation.--The
849 exercise of the powers by the board conferred in this act
850 constitutes the performance of government functions. Facilities
851 owned or operated by the district under the provisions of this
852 act constitute public property. When such facilities are used
853 for governmental purposes, the board shall not be required to
854 pay any taxes or assessments upon any such facilities or parts
855 thereof.

856 Section 18. Discrimination prohibited.--

857 (1) The authority and its lessees, including successors in
858 interest, shall not because of race, color, sex, religion,
859 national origin, age, disability, or sexual orientation of any
860 individual refuse to hire or employ, or bar or discharge from
861 employment, such individual or to otherwise discriminate against
862 such individual with respect to compensation, hire, tenure,

863 terms, conditions, or privileges of employment.

864 (2) No person on the grounds of race, color, sex,
865 religion, national origin, age, disability, or sexual
866 orientation shall be excluded from the participation in, denied
867 the benefits of, or otherwise subjected to discrimination in the
868 use of leased premises of the authority.

869 (3) In furnishing services or materials, or in the
870 construction of any improvements, no person shall be excluded
871 from participation in, denied the benefits of, or otherwise
872 subjected to discrimination with respect thereto.

873 (4) There is no right to apply to the court for relief on
874 account of any order, requirement, decision, determination, or
875 action of the authority under this section unless there has been
876 an appeal to the authority.

877 Section 19. Litigation.--Nothing herein shall interfere
878 with any legal action filed by or against the city or
879 predecessor or predecessors of the authority. The authority may
880 become a party in any such action as provided by law. Nothing
881 herein shall impair the right of the city or the authority to
882 initiate, pursue, or defend litigation.

883 Section 20. Severability.--If any provision of this act
884 or the application thereof to any person or circumstance is held
885 invalid, the invalidity shall not affect other provisions or
886 applications of the act which can be given effect without the
887 invalid provisions or applications, and to this end the
888 provisions of this act are declared severable.

889 Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1631

Village of North Palm Beach, Palm Beach County

SPONSOR(S): Domino

TIED BILLS:

IDEN./SIM. BILLS: SB 2784

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|------------------------------------|---------|-----------------------|-----------------------|
| 1) <u>Local Government Council</u> | <u></u> | Smith <u>T. L. J.</u> | Hamby <u>A. D. B.</u> |
| 2) <u>Transportation Committee</u> | <u></u> | <u></u> | <u></u> |
| 3) <u></u> | <u></u> | <u></u> | <u></u> |
| 4) <u></u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

HB 1631 designates a portion of State Road A1A (U.S. 1) beginning at its intersection with PGC Boulevard and ending just west of the Burnt Bridge, Florida Department of Transportation bridge #930361, within the Village of North Palm Beach, Palm Beach County, as "Jack Nicklaus Drive." The bill authorizes the Village of North Palm Beach to change street signs and markers, mailing addresses, and 911 emergency telephone system listings and to erect signs and markers to reflect the designation.

According to the Economic Impact Statement, there is an \$11,000.00 estimated cost for fiscal year 2006-07.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

HB 1631 designates a portion of State Road A1A (U.S. 1) beginning at its intersection with PGC Boulevard and ending just west of the Burnt Bridge, Florida Department of Transportation bridge #930361, within the Village of North Palm Beach, Palm Beach County, as "Jack Nicklaus Drive." The bill authorizes the Village of North Palm Beach to change street signs and markers, mailing addresses, and 911 emergency telephone system listings and to erect signs and markers to reflect the designation.

C. SECTION DIRECTORY:

Section 1. Designates a portion of State Road A1A within the Village of North Palm Beach as Jack Nicklaus Drive; authorizes and directs the Village to change street signs and markers, mailing addresses, and 911 emergency telephone system listings and to erect signs and markers.

Section 1. Provides for the bill to take effect July 1, 2006.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? February 13, 2006.

WHERE? *The Palm Beach Post*, West Palm Beach, Palm Beach County, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

According to the Economic Impact Statement, there is an \$11,000.00 estimated cost for fiscal year 2006-07, the Village will be responsible for paying for the new street signs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES


Not Applicable.

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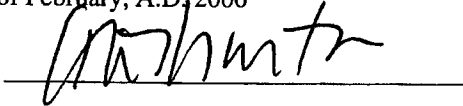
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STATE OF FLORIDA
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared **Kristi Morrow**, who on oath says that she is **Customer Service Supervisor** of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a **Notice** in the matter of **Local Legislation** was published in said newspaper in the issues of **February 11, 2006**. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



Sworn to and subscribed before 13th day of February, A.D. 2006



Personally known XX or Produced Identification _____
Type of Identification Produced _____



Karen M. McLinton
Commission # DD859566
Expires: NOV 15, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

NO. 5191072
NOTICE OF LOCAL
LEGISLATION
TO WHOM IT MAY CON-
CERN:
Notice is hereby given of
intent to seek legislation
before the 2006 Legislature
of the State of Florida and
any Special or Extended
Sessions for passage of an
act relating to the Village of
North Palm Beach, Palm
Beach County; designating
a portion of State Road A1A
beginning at its intersection
with PGA Boulevard and
ending just west of the Burnt
Bridge, Florida Department
of Transportation bridge
number 830381 within the
Village of North Palm Beach
as Jack Nicklaus Drive;
authorizing and directing the
Village of North Palm Beach
to change street signs and
markers, mailing addresses,
and 911 emergency tele-
phone system listings and to
erect signs and markers
accordingly; providing an
effective date.
Village of North Palm Beach
501 U.S. Highway 1
North Palm Beach, FL 33408
PUB: The Palm Beach Post
February 11, 2006

HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION

BILL #: _____
SPONSOR(S): Rep. Carl Domino
RELATING TO: Village of North Palm Beach
[Indicate Area Affected (City, County, Special District) and Subject]
NAME OF DELEGATION: Palm Beach County
CONTACT PERSON: Ed Chase, Executive Director
PHONE # and E-MAIL: 561/355-2406 echase@pbcgov.com

I. House policy requires that three things occur before a Council or Committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the bill's purpose cannot be accomplished at the local level; (2) a local public hearing must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. Local bills will not be considered by a Council or Committee without a completed, original Local Bill Certification Form.

Does the delegation certify that the purpose of the bill cannot be accomplished locally?
YES ☒ NO ☐

Has a public hearing been held? YES ☒ NO ☐

Date hearing held: December 13, 2005
Location: West Palm Beach, Florida

Was this bill formally approved by a majority of the delegation members?
YES ☐ NO ☐ UNIT RULE ☐ UNANIMOUS ☒

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided in general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this Constitutional requirement been met?

Notice published: YES ☒ NO ☐ **Date:** December 22, 2005

Where? Palm Beach Post **County:** Palm Beach

Referendum in lieu of publication: YES ☐ NO ☐

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional requirement been met?
YES ☐ NO ☐ NOT APPLICABLE ☒

House policy requires that an Economic Impact Statement for Local Bills be prepared at the local level.



Delegation Chair (Original Signature) 3 Dec 2006

Date

HOUSE COMMITTEE ON LOCAL GOVERNMENT AND VETERANS AFFAIRS
2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a Council or Committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact.

BILL #: _____

SPONSOR(S): Representative Carl Domino

RELATING TO: North Palm Beach, Palm Beach County - road renaming
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

| | <u>FY 06-07</u> | <u>FY 07-08</u> |
|---------------|-----------------|-----------------|
| Expenditures: | \$11,000 | |

II. ANTICIPATED SOURCE(S) OF FUNDING:

| | <u>FY 06-07</u> | <u>FY 07-08</u> |
|----------|-----------------------------|-----------------|
| Federal: | | |
| State: | | |
| Local: | Village of North Palm Beach | |

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

| | <u>FY 06-07</u> | <u>FY 07-08</u> |
|-----------|-----------------|-----------------|
| Revenues: | none | |

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: Because Jack Nicklaus is a well-known and respected public figure, any individual, business, or governmental entity using or referring to an address or location on Jack Nicklaus Drive would have great name recognition.

Disadvantages: If one chooses to change the street name on stationery or other mailpieces from State Road A1A to Jack Nicklaus Drive, the cost for new stationery or other printed material.

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

none

VI. DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDE SOURCE[S] OF DATA):

sign cost: Signing America Corporation

PREPARED BY: Melissa Teal 11/16/05
Must be signed by Preparer] Date

TITLE: Village Clerk

REPRESENTING: Village of North Palm Beach

PHONE: (561) 841-3355

HB 1631

2006

1 A bill to be entitled
2 An act relating to the Village of North Palm Beach, Palm
3 Beach County; designating a portion of State Road A1A
4 within the village as Jack Nicklaus Drive; authorizing and
5 directing the village to change street signs and markers,
6 mailing addresses, and 911 emergency telephone system
7 listings and to erect signs and markers accordingly;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Jack Nicklaus Drive designated; signs, mailing
13 addresses, listings, and markers.--

14 (1) Notwithstanding ss. 267.062 and 334.071, Florida
15 Statutes, that portion of State Road A1A (U.S. 1) beginning at
16 its intersection with PGA Boulevard and ending just west of the
17 Burnt Bridge, Florida Department of Transportation bridge number
18 930361, in Palm Beach County is designated as "Jack Nicklaus
19 Drive."

20 (2) The Village of North Palm Beach within which the new
21 Jack Nicklaus Drive is located is authorized and directed to
22 change street signs and markers, mailing addresses, and 911
23 emergency telephone number system listings to reflect the
24 designation.

25 (3) The Village of North Palm Beach is authorized and
26 directed to erect the appropriate signs and markers upon Jack
27 Nicklaus Drive as described in subsection (1).

28 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1633

Alachua County Housing Authority

SPONSOR(S): Cretul

TIED BILLS:

IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|-----------------------------|--------|------------------|-----------------|
| 1) Local Government Council | | Nelson <i>LN</i> | Hamby <i>LD</i> |
| 2) | | | |
| 3) | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

HB 1633 provides that the Alachua County Board of Commissioners may appoint two alternate members to the Alachua County Housing Authority. The bill also provides that the Alachua County Housing Authority is not a dependent special district.

The bill has an effective date of upon becoming law.

According to the Economic Impact Statement, this bill has no fiscal impact.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

Section 189.403, F.S., defines a "special district" as a local unit of special purpose (as opposed to general-purpose) government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers.

"Dependent special district" is defined as a special district that meets at least one of the following criteria:

- (a) The membership of its governing body is identical to that of the governing body of a single county or a single municipality.
- (b) All members of its governing body are appointed by the governing body of a single county or a single municipality.
- (c) During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality.
- (d) The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

An "independent special district" means a special district that is not a dependent special district.

County Housing Authorities

Section 421.27, F.S., creates a housing authority in each Florida county. The area of operation of a housing authority created for a county includes all of the county for which it is created except that portion of the county which lies within the territorial boundaries of any city as defined in the Housing Authorities Law¹, as amended.

These housing authorities may not transact business or exercise their powers until or unless the governing body of the county declares by resolution that there is need for a housing authority in such county. Upon notification of the adoption of such resolution, the commissioners of the housing authority are appointed by the Governor. These appointments are to be made "in the same manner as the commissioners of a housing authority created for a city may be appointed by the mayor...."

Section 421.05, F.S., which provides for such appointments, states that the mayor shall appoint no fewer than five persons, and no more than seven persons,² as commissioners of the authority. Three of the commissioners who are first appointed are designated to serve for terms of one, two and three years, respectively; the remaining commissioners are designated to serve for terms of four years each, from the date of their appointment. Thereafter, each commissioner is appointed for a four year term, except that a vacancy is filled for the unexpired term. Each housing authority is required to have at least one commissioner who is a resident who is current in rent in a housing project or a person of low or very low income who resides within the housing authority's jurisdiction and is receiving rent subsidy

¹ Part I of ch. 421, F.S.

² Notwithstanding this limitation on the number of commissioners of a housing authority, any housing authority that has more than seven commissioners on March 28, 1991, may maintain the same number.

through a program administered by the authority or public housing agency that has jurisdiction for the same locality served by the housing authority. In the case of an authority does not have a completed project, no tenant-commissioner may be appointed until 10 percent of the units in the first project of the authority have been occupied. The cessation of a tenant-commissioner's tenancy in a housing project or the cessation of rent subsidy removes the tenant-commissioner from office, and another person meeting the qualifications required for the office is appointed for the unexpired portion of the term. After all reasonable efforts have been made and documented, if the commissioners find that no housing project resident or rent subsidy recipient is available to serve as a tenant-commissioner, the existing vacancy then is filled through the normal appointment procedures. However, such normal appointment does not preclude the requirement to exercise diligence in all succeeding vacancies to attempt to first appoint a tenant-commissioner until at least one tenant-commissioner has been appointed. No commissioner of an authority may be an officer or employee of the city for which the authority is created. A commissioner holds office until a successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner is filed with the clerk, and such certificate is conclusive evidence of the due and proper appointment of such commissioner. A commissioner receives no compensation for his or her services but is entitled to the necessary expenses, including travel expenses, incurred in the discharge of his or her duties. The requirements of this subsection with respect to the number of commissioners of a housing authority apply without regard to the date on which the housing authority was created.

These commissioners may be removed or suspended in the same manner and for the same reasons as other gubernatorial appointees.

Alachua County Housing Authority

Chapter 71-526, L.O.F., currently provides that the commissioners of the Alachua County Housing Authority shall be appointed by the Board of County Commissioners of Alachua County in lieu of the method appointment provided for under ch. 421.27, F.S. The Housing Authorities' web site³ notes that its board of commissioners is comprised of five commissioners. According to the Florida Department of Community Affairs Official List of Special Districts, this entity currently is classified as dependent special district.⁴

Effect of Proposed Changes

HB 1633 amends ch. 71-526, L.O.F. It retains the language which provides that the commissioners of the Alachua County Housing Authority shall be appointed by the Board of County Commissioners of Alachua County. The bill also corrects a reference to s. 421.27(2), F.S. Additionally, the bill provides that the board of county commissioners may appoint one at-large alternate member and one alternate tenant commissioner.⁵

The bill further states that the Alachua County Housing Authority is an independent authority and not a dependent special district of Alachua County, because the Board of County Commissioners of Alachua County cannot remove housing authority members or control housing authority budgets.

Chapter 189 clearly distinguishes the attributes of an independent vs. dependent special district. The Department of Community Affairs' Florida Special District Handbook (January 2006) notes that "[a]n independent special district does not have *any* dependent characteristics." There may be certain benefits in the classification of a district as independent for a county (for example, the millage of such a district does not count against that of its county when calculating the maximum millage allowable by law⁶). However, a dependent special district must shed its various dependent qualities before declaring

³ <http://fdt.net/~acha/BoardofCommish.htm/>

⁴ <http://floridaspecialdistricts.org/OfficialList/report.asp>

⁵ While ch. 421, F.S., allows for up to seven commissioners, it does not contemplate the appointment of alternate members.

⁶ See, s. 200.001(8)(d), F.S.

its independent status. In this case, the effect could be accomplished by reverting to gubernatorial appointment of housing authority board members.⁷

The bill also provides for severability, and an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends ch. 71-526, L.O.F.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? January 24, 2006

WHERE? *The Gainesville Sun*, a daily newspaper published in Alachua County, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

According to the Economic Impact Statement, this bill has no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

⁷Section 189.404 (5), F.S., requires that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement is to be amended to conform with the Department of Community Affairs' determination or declaratory statement regarding the status of the district. Chapter 71-526, L.O.F., does not contain a charter for the Alachua County Housing Authority.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Sponsor of the bill intends to offer a strike-all amendment to the bill which removes the proposed:

- Section 2 of ch. 71-526, L.O.F., which contains language providing that the Alachua County Housing Authority is an independent special district; and
- Section 3 of ch. 71-526, L.O.F., which provides for severability.

0001 LEGALS

NOTICE OF INTENT TO SEEK LEGISLATION

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Alachua County, Florida, intends to apply to the 2006 Regular Session of the Florida Legislature for passage of an act relating to the Alachua County Housing Authority, providing that the Alachua County Commission may appoint two alternate members to the Alachua County Housing Authority, providing that the Alachua County Housing Authority is not a dependent special district, providing severability, providing an effective date.

by David W. Wagner
County Attorney
Alachua County, Florida

\$425, 1/24/06
A000119855

AFFIDAVIT OF PUBLICATION

The Gainesville Sun
Published - Daily
Gainesville, Alachua County, Florida

STATE OF FLORIDA
COUNTY OF ALACHUA

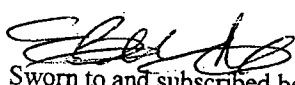
Before the undersigned, a Notary Public of Said County and State, Ernest
Ke, III, who on oath says that he is Legal Advertising Coordinator of THE
GAINESVILLE SUN, a daily newspaper published at Gainesville, in Alachua
County, Florida; that the attached copy of advertisement, being a notice in the
matter of

*NOTICE OF INTENT TO SEEK LEGISLATION NOTICE IS HEREBY GIVEN
that the Board of County Commissioners of Alachua County, Florida, intends to apply
to the 2006 Regular Session of the Regular Session of the Florida Legislature for
passage of an act relating*


was published in said newspaper in the issues of:

1/24 1x

Affiant further says that the said THE GAINESVILLE SUN is a daily
newspaper published at Gainesville, in said Alachua County, Florida, and that the
said newspaper has heretofore been continuously published in said Alachua
County, Florida, daily, and has been entered as second class mail matter at the
post office in Gainesville in said Alachua County, Florida, for a period of one
year next preceding the first publication of the attached copy of advertisement;
and affiant further says that he has neither paid nor promised any person, firm or
corporation any discount, rebate, commission or refund for the person of securing
this advertisement for publication in the said newspaper.



Sworn to and subscribed before me this 24th day of January, A.D., 2006


Jeffrey L. Bloodworth
Notary Public
MY COMMISSION # DD159430 EXPIRES
October 20, 2006
(Print, Type or Stamp Name of Notary Public)

My commission expires 20 day of Oct, 2006

**HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION**

BILL #: HB 1633
SPONSOR(S): Cretul
RELATING TO: Alachua County Housing Authority
(Indicate Area Affected (City, County, Special District) and Subject)
NAME OF DELEGATION: Alachua County Delegation
CONTACT PERSON: Richard Mills
PHONE # and E-Mail: 352-384-3148 ~~mills@alachuacountyfl.us~~ mills@co.alachua.fl.us

I. House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. **Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.**

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES ☒ NO ☐

(2) Has a public hearing been held? YES ☒ NO ☐

Date hearing held: 12/14/05

Location: Santa Fe Community College

(3) Was this bill formally approved by a majority of the delegation members? YES ☐ NO ☐ UNIT RULE ☐ UNANIMOUS ☒

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES ☒ NO ☐ DATE 1/24/06

Where? Gainesville Sun County Alachua

Referendum in lieu of publication: YES ☐ NO ☐

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional taxation requirement been met?

YES ☐ NO ☐ NOT APPLICABLE ☒

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.


Delegation Chair (Original Signature) 03/06/06 Date

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: HB 1633

SPONSOR(S): Cretul

RELATING TO: Alachua County Housing Authority

[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures: _____ FY 06-07 FY 07-08

II. ANTICIPATED SOURCE(S) OF FUNDING:

Federal: _____ FY 06-07 FY 07-08

State: /

Local: _____

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues: _____ FY 06-07 FY 07-08

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: /

Disadvantages: _____

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR
EMPLOYMENT: *None*

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) (IF
DATA): *None*

PREPARED BY: *Michael J. Preston* *3/21/08*
[Must be signed by Preparer] Date

TITLE: *Legislative Aide*

REPRESENTING: *Larry Cretin*

PHONE: *(830-488-0887)*

E-Mail Address: *Michael.preston@myfloridahouse.gov*

HB 1633

2006

A bill to be entitled

An act relating to the Alachua County Housing Authority; amending chapter 71-526, Laws of Florida; providing that the Alachua County Commission may appoint two alternate members to the Alachua County Housing Authority; providing that the Alachua County Housing Authority is not a dependent special district; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 71-526, Laws of Florida, is amended to read:

Section 1. The Commissioners of the Alachua County Housing Authority shall be appointed by the Board of County Commissioners of Alachua County, Florida, in lieu of the method appointment provided for under section Chapter 421.27, subsection (2), Florida Statutes; provided, however, the board of county commissioners may appoint one at-large alternate member and one alternate tenant commissioner.

Section 2. The Alachua County Housing Authority is an independent authority and not a dependent special district of Alachua County, because the Board of County Commissioners of Alachua County cannot remove housing authority members or control housing authority budgets.

Section 3. If any provision of this act or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act

HB 1633

2006

29 | that can be given effect without the invalid provision of the
30 | application, and to this end the provisions of the act are
31 | declared severable.

32 | ~~Section 2. This act shall take effect on July 1, 1971.~~

33 | Section 2. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1633

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

Council/Committee hearing bill: Local Government
Representative Cretul offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Chapter 71-526, Laws of Florida, is amended to
read:

Section 1. The Commissioners of the Alachua County Housing
Authority shall be appointed by the Board of County
Commissioners of Alachua County, Florida, in lieu of the method
appointment provided for under section Chapter 421.27,
subsection (2), Florida Statutes; provided, however, the board
of county commissioners may appoint one at-large alternate
member and one alternate tenant commissioner.

~~Section 2. This act shall take effect on July 1, 1971.~~

Section 2. This act shall take effect upon becoming a law.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

A bill to be entitled

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

22 An act relating to the Alachua County Housing Authority;
23 amending chapter 71-526, Laws of Florida; providing that
24 the Alachua County Commission may appoint two alternate
25 members to the Alachua County Housing Authority; providing
26 an effective date.
27



Local Government Council

Wednesday, April 5, 2006

1:00 p.m.

404 House Office Building

Addendum A (4/4/2006 3:58 PM)

Amendments for HB 0431

Amendment for HB 1531

Analysis for HB 1245

Analysis for HB 1483

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. 0431

COUNCIL/COMMITTEE ACTION

| | |
|-----------------------|-----------|
| ADOPTED | ___ (Y/N) |
| ADOPTED AS AMENDED | ___ (Y/N) |
| ADOPTED W/O OBJECTION | ___ (Y/N) |
| FAILED TO ADOPT | ___ (Y/N) |
| WITHDRAWN | ___ (Y/N) |
| OTHER | _____ |

Council/Committee hearing bill: Local Government Council
Representative(s) Littlefield offered the following:

Amendment

Between lines 123 and 124, insert:

(6) (a) This subsection shall apply to the proposed placement or construction of a new distribution electric substation within a residential area. Prior to submitting an application for the location of a new distribution substation in residential areas, the utility shall consult with the local government regarding the selection of a site. The utility shall provide information regarding the utility's preferred site and as many as three available sites that are technically and electrically reasonable for the load to be served. The selection of the site for application shall be collaboratively determined by the utility and the local government within 30 days after presentation of the alternative sites.

(b) A local government's land development and construction regulations for electrical distribution substations and the local government's review of an application for the placement or construction of a new electrical substation shall only address

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

22 land development or zoning issues. In such local government
23 regulations or review, a local government may not require
24 information or evaluate a utility's business decisions about its
25 service, customer demand for its service, or quality of its
26 service to or from a particular area or site, unless the utility
27 voluntarily offers this information to the local government.
28 Information or materials directly related to an identified land
29 development or zoning issue may include as many as three
30 alternative locations acceptable to the utility.

31 (c) In the event the utility and the local government are
32 unable to reach agreement under paragraph (a) on an appropriate
33 location, the substation site selection shall be submitted to
34 mediation conducted pursuant to ss. 44.401-44.406 and the
35 mediation shall be concluded within 30 days unless extended by
36 written agreement of the parties. The timeframes under
37 subsection (8) are tolled until the mediation is concluded,
38 terminated, or an impasse is declared.

39
40 (renumber subsequent subsections)

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. **2** (for drafter's use only)

Bill No. **0431**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Local Government Council
Representative(s) Littlefield offered the following:

Amendment

Remove line(s) 218-223 and insert:

regulations, or trees within canopy road protection areas. This
section shall not apply if a local government, with input from
the utility, has developed and adopted a written plan
specifically for vegetation maintenance, tree pruning, tree
removal, and tree trimming by the utility within established
rights-of-way and the plan is not inconsistent with the National
Electrical Safety Code. If a local government's adopted plan
requires a maintenance protocol or frequency more demanding than
the plan proposed by the utility, the local government shall
bear the responsibility to implement its adopted plan.

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1531

COUNCIL/COMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | ___ | (Y/N) |
| ADOPTED AS AMENDED | ___ | (Y/N) |
| ADOPTED W/O OBJECTION | ___ | (Y/N) |
| FAILED TO ADOPT | ___ | (Y/N) |
| WITHDRAWN | ___ | (Y/N) |
| OTHER | _____ | |

Council/Committee hearing bill:

Representative Brandenburg offered the following:

Amendment

Remove line(s) 70 - 78 and insert:

along said north line, N 88°33'32" W for 215.90 feet to a non-
tangent curve, concave to the west, having a radius of 885.00
feet, where a radial line bears S 71°58'11" W; thence southerly,
along said curve to the right, through a central angle of
19°56'06" for 307.92 feet to a point of tangency; thence S
01°54'17" W for 2383.63 feet to the said south line of Section
3; thence along said south line, S88°43'44" E for 160.01 feet
to the Point of Beginning.

000000

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

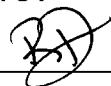
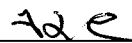
BILL #: HB 1245

North Broward Hospital District, Broward County

SPONSOR(S): Sobel

TIED BILLS:

IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|-----------------------------|--------|---|---|
| 1) Local Government Council | | DiVagno  | Hamby  |
| 2) Fiscal Council | | | |
| 3) | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

The North Broward Hospital District (District) is an independent special tax district with the public purpose of providing for the health care needs of the people of the District. The District was created under ch. 27438 (1951), L.O.F., and amended by subsequent acts. The District has the authority to collect ad valorem taxes at a rate not to exceed 2.5 mills and is governed by a seven member Board of Commissioners (Board) appointed by the Governor.

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority or superseding the authority of any entity pursuant to law. Neither is reenactment to be construed as modifying, amending, or altering covenants, contracts, or other obligations of the District with respect to bond indebtedness. The bill codifies the provisions of the charter with editorial and organizational changes, except as follows:

- The training school for nurses must be in accordance with state laws and regulations.
- The bonding powers are significantly revised.
- Provides for an additional method of compromising and settling accounts receivable or other claims for money due and owed to the District.
- Provides that each hospital or clinic established under the act be for the use and benefit of the residents of the District, and that such residents be admitted and entitled to hospitalization subject to the rules and regulations provided by the Board effective on the date of admission of the patient. The hospital and clinic may also provide care and treatment, without charge, for patients found to be indigent by the Board. However, the Board may still collect from patients financially able to pay such charges established by the Board. Additionally, the Board is allowed to exclude any person having a communicable or contagious disease where there may be detriment to the best interests of the hospital, unless the hospital has a separate ward or building for the special treatment of such patients. The Board may also extend privileges and use of the District's hospitals and clinics to non-residents, though residents of the District have first claim to admission.
- Confidentiality of the quasi-judicial functions of the board is amended to be confidential only as provided by law.

This bill would take effect upon becoming law.

No fiscal impact is expected for FY 2005/06 or 2006/07.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1245.LGC.doc

DATE: 3/25/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S. and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of the statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows for the adoption of the codification schedule provided for in an October 3, 1997 memorandum issued by the Chair of the Committee on Community Affairs. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district. Additionally, the 2001 Legislature amended s. 189.429, F.S. to provide that reenactment of existing law pursuant to s. 189.429, F.S.: (1) shall not be construed to grant additional authority nor to supersede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

Since the enactment of ss. 189.429 and 191.015, F.S., 201 special districts (includes local bills that were vetoed or filed and did not pass the Legislature) have codified their charters.

Although the deadline for submission of a codified charter by all special districts was prior to the 2005 Legislative session, all special districts have not complied with this requirement, and proposed codification bills for other special districts have not been enacted by the Legislature or have been vetoed by the Governor. As a result, additional proposed codification bills are anticipated.

North Broward Hospital District:

The North Broward Hospital District (District) is an independent special tax district with the public purpose of providing for the health care needs of the people of the District. The District has the authority to collect ad valorem taxes at a rate not to exceed 2.5 mills and is governed by a seven member Board of Commissioners (Board) appointed by the Governor. The Board has all the powers of a body corporate, including the power to:

- Sue and be sued;
- Contract;
- Adopt and alter a seal;
- Acquire, purchase, hold, lease, and convey real and personal property;
- Appoint a superintendent and other such agents as deemed advisable;
- Borrow money, incur indebtedness, and issue notes, revenue certificates, bonds, and other evidence of indebtedness;

- Establish and support subsidiary or affiliate organizations to fulfill its public purpose, and to the extent permitted by the State Constitution, to support not-for-profit organizations whose purposes are to provide health care needs to the people of the District;
- Participate as a shareholder in a corporation, or as a joint venturer in a joint venture, that provides health care, or activities related to health care, and to provide equity financing for the activities of the corporation or joint venture and to utilize the assets and resources of the District to the extent not needed for health care and related activities, to the extent permitted by the State Constitution;
- Invest "surplus funds" as provided for in ch. 218, F.S., and as allowed under s. 218.345, F.S., as amended or superseded;
- Delegate authority to invest surplus funds to a state or national banking organization acting pursuant to a written trust agreement as a trustee of the District's funds;
- Invest any funds in the District's control or possession in accordance with an investment policy, consisting of prudent investment practices, approved by the board and include specific
 - bankers acceptances
 - commercial paper
 - interest-bearing bonds, debentures, and other such evidence of indebtedness
 - negotiable direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States Government
 - options as to engage in bond fide hedging activities
 - equity securities
 - contracts

The Board is authorized and empowered to establish, operate, maintain, and/or construct, when necessary:

- Hospital(s), supportive facilities, and such facilities needed to provide for limited care and treatment for the needs and use of the people in the District.
- A training school for nurses, for which the Board is empowered to set-up rules and regulations for the operation of, and to issue diplomas of completion.
- Clinics, medical training, and medical research programs in connection with the operation of the District's hospital(s).
- Projects and programs of and for medical research, education, and development affecting human physical or mental health and well being.
- Automobile facilities deemed proper and necessary for a hospital facility.

The Board has the power of eminent domain, to be exercised in the manner provided for in general law. The Board is authorized to sell real or personal property of the District only in accordance to the terms and conditions of its charter.

The Board is also authorized to incur a variety of indebtedness in the forms of bonds, notes, certificates, lease participations, guaranties, and any other form of indebtedness payable from the general revenues and other legally available funds of the District. The charter contains extensive provisions regarding the issuance of bonds and refunding bonds by the Board. The Board also has authority to declare accounts receivable uncollectible and write such accounts off, to settle any accounts receivable, and to obligate the District for the payment of hospital and nursing home expenses for patients transferred from the District's hospitals, provided such patients are deemed indigent by the District.

The Board was required to authorize and establish one medical staff for the direction and control of the practitioners and to insure performance of the necessary professional services in the hospitals and facilities operated by the District. The Board is authorized to establish rules and regulations regarding professional duties and responsibilities of the staff and is provided quasi-judicial procedures for which membership on said staff can be granted, refused, revoked, or suspended. The charter provides confidentiality of all documents, testimony, and evidence relevant to these proceedings.

The Board is also authorized to employ professional and nonprofessional personnel necessary for the effective and lawful operation of the hospital and facilities of the District. In doing so, the Board is also authorized to establish rules and regulations to govern the operations and conduct of the District's hospitals, facilities, employees, patients, private duty nurses, guests, visitors, or any other person using the premises and facilities.

The Board is authorized and empowered to create an employees pension fund so as to provide life, disability, and medical insurance for all or any of its employees.

The charter limits the purchase of supplies, equipment, and materials used for the operation and maintenance of hospital and facilities to 1.5 mills of the total annual District revenues. All contracts for construction in excess of said amount must go through a competitive bid process, as established in the charter, before being approved.

The charter of the District also declares the District a "local agency", as defined in s. 159.27, F.S., and gives the District all the powers set forth in ch. 159, part II, F.S. Chapter 159, part II, F.S., is the Florida Industrial Development Act, and is intended to provide financing of projects meeting the legislative findings in the chapter.

The District's charter exempts the District from being declared a "public body" or "taxing authority" as provided for in ch. 163, part III, F.S., the Community Redevelopment Act of 1969.

Effect of Bill and Changes to the North Broward Hospital District's Charter:

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority, or as superseding the authority of any entity pursuant to law. Neither is the bill entitled to modify, amend, or alter any covenants, contracts, or other obligations of the District with respect to bond indebtedness, or affect the ability of the district to levy and collect taxes, assessments, fees, or chargers for the purpose of redeeming and servicing bound indebtedness. The exclusive charter of the District is recreated by this bill.

The bill codifies the provisions of the charter with editorial and organizational changes, except as follows:

- The training school for nurses provided for in section 7 of the proposed codified charter now must be in accordance with state laws and regulations.
- The bonding powers are significantly revised, with section 10 of the proposed codified charter providing only that the District's bonds be issued or sold in a manner and at a rate or rates of interest as authorized by general law and that the bonds may be sold at par or at such premium or discount as the Board determines, in keeping with general law.
- An additional method of compromising and settling accounts receivable or other claim for money due and owed to the District is provided for in section 11 of the proposed codified charter, authorizing and empowering the Board to do such through the acceptance of promissory notes in accordance with the terms and conditions determined by the Board. However, the Board may not assign, sell, or sit over said promissory notes to commercial institutions or private collection agencies for collection.
- In authorizing the treatment of persons at the facilities of the District, section 17 of the proposed codified charter provides that each hospital or clinic established under the act be for the use and benefit of the residents of the District, and that such residents be admitted and entitle to hospitalization subject to the rules and regulations effective on the date of admission of the patient, provided by the Board. The hospital and clinic may also provide care and treatment, without charge, for patients found to be indigent by the Board. However, the Board may still collect from patients financially able to pay, such chargers established by the Board. Additionally, the Board is allowed to exclude any person having a communicable or contagious disease where there may be detriment to the best interests of the hospital, unless the hospital has a separate ward or building

for the special treatment of such patients. The Board may also extend privileges and use of the District's hospitals and clinics to non-residents, though residents of the District have first claim to admission.

- The confidentiality of the quasi-judicial functions of the board is amended in section 18(g) of the proposed codified charter to be confidential as provided by law.

The proposed codified charter contains a severability clause, providing that if any provision of the act be invalid or unenforceable, the remaining portion shall remain valid.

C. SECTION DIRECTORY:

- Section 1:** Provides limits of the reenactment.
- Section 2:** Codifies, reenacts, amends, and repeals special laws relating to North Broward Hospital District.
- Section 3:** Provides for the re-created, reenacted charter of North Broward Hospital District.
- Section 1: Provides boundaries.
- Section 2: Provides seven subdistricts.
- Section 3: Creates the board of commissioners.
- Section 4: Provides powers of the board of commissioners.
- Section 5: Provides rules of procedure for the board of commissioners.
- Section 6: Authorizes the Board to establish and maintain health care facilities.
- Section 7: Authorizes the Board to establish and maintain a training school for nurses.
- Section 8: Provides the Board power of eminent domain.
- Section 9: Provides for indebtedness.
- Section 10: Authorizes issuance and sale of bonds by the District.
- Section 11: Authorizes the Board to accept promissory notes.
- Section 12: Provides for payment of funds.
- Section 13: Authorizes the Board to collect property taxes and other lawful taxes to pay and provide for a fund for interest on bonds.
- Section 14: Provides for the levy of property tax by resolution.
- Section 15: Authorizes the Board to use funds to pay expenses.
- Section 16: Requires publication of annual financial statements.
- Section 17: Establishes each hospital and clinic is for the use and benefit of residents of the District.
- Section 18: Provides for one medical staff for the direction and control of practitioners and authorizes the Board to establish bylaws, rules, and regulations for members of the staff. Provides for and the rules of quasi-judicial proceedings.
- Section 19: Authorizes the District to provide a pension plan and insurance benefits for employees.
- Section 20: Authorizes the Board to sell or lease property of the District.
- Section 21: Allows donations to the District.
- Section 22: Authorizes the Board to acquire property from the City of Ft. Lauderdale.
- Section 23: Allows for the establishment of hospitals without the issuance of bonds.
- Section 24: Provides for a competitive bid procedure and authority to negotiate contracts.
- Section 25: Authorizes the Board to write off bad debts.
- Section 26: Authorizes the Board to compromise and settle accounts receivable.
- Section 27: Authorizes the Board to obligate the District to pay for expenses of indigent patients transferred to other hospitals or nursing homes.
- Section 28: Authorizes the Board to construct parking facilities and charge fees for use.
- Section 29: Authorizes the Board to establish, maintain, or participate in programs and projects for medical research, education, and development affecting mental and physical health.

- Section 30: Provides the fiscal year of July 1 thru June 30.
Section 31: Declares the District a local agency under ch. 159, F.S., the Florida Industrial Development Financing Act.
Section 32: Authorizes the transfer or lease of facilities to not-for-profit corporations.
Section 33: Exempts the District from being deemed a public body or taxing authority under the Community Redevelopment Act of 1969.
Section 34: Provides for liberal construction of the charter.
Section 4: Provides for severability.
Section 5: Repeals special laws in the Laws of Florida.
Section 6: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? December 31, 2005.

WHERE? *Sun-Sentinel*, Broward County, Palm Beach County, and Miami-Dade County, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

No fiscal impact is expected for FY 2005/06 or 2006/07.¹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The Board is authorized to establish rules and regulations to govern the operations and conduct of the District's hospitals, facilities, employees, patients, private duty nurses, guests, visitors, or any other person using the premises and facilities. The Board is also authorized to set-up rules and regulations, in accordance with state laws and regulations, for the operation of a nurses training program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

¹ 2006 Economic Impact Statement, HB 1245.

SUN-SENTINEL
PUBLISHED DAILY
FORT LAUDERDALE, BROWARD COUNTY, FLORIDA
BOCA RATON, PALM BEACH COUNTY, FLORIDA
MIAMI, MIAMI DADE COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF BROWARD/PALM BEACH/MIAMI DADE
BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED

me WHO, ON OATH, SAYS THAT
HE/SHE IS A DULY AUTHORIZED REPRESENTATIVE OF THE CLASSIFIED
DEPARTMENT OF THE SUN-SENTINEL, DAILY NEWSPAPER PUBLISHED
IN BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA, THAT THE
ATTACHED COPY OF ADVERTISEMENT, BEING A:

NOTICE OF LEGISLATION

IN THE MATTER OF:

AN ACT CODIFYING THE CHARTER

IN THE CIRCUIT COURT, WAS PUBLISHED IN SAID NEWSPAPER IN THE
ISSUES OF:

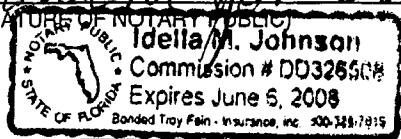
12/31

12653854

AFFIANT FURTHER SAYS THAT THE SAID SUN-SENTINEL IS A NEWSPAPER
PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA,
AND THAT THE SAID NEWSPAPER HAS HERETOFORE BEEN CONTINUOUSLY
PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA,
EACH DAY, AND HAS BEEN ENTERED AS SECOND CLASS MATTER AT THE
POST OFFICE IN FORT LAUDERDALE, IN SAID BROWARD COUNTY, FLORIDA,
FOR A PERIOD OF ONE YEAR NEXT PRECEDING THE FIRST PUBLICATION OF
ATTACHED COPY OF ADVERTISEMENT: AND AFFIANT FURTHER SAYS THAT
HE/SHE HAS NEITHER PAID, NOR PROMISED, ANY PERSON, FIRM, OR
CORPORATION, ANY DISCOUNT, REBATE, COMMISSION, OR REFUND, FOR THE
PURPOSE OF SECURING THIS ADVERTISEMENT FOR PUBLICATION IN SAID
NEWSPAPER.

me
(SIGNATURE OF AFFIANT)

SWORN TO AND SUBSCRIBED BEFORE ME
ON: 31-DECEMBER, 2005 A.D.

Idella M. Johnson
(SIGNATURE OF NOTARY PUBLIC)


(NAME OF NOTARY, TYPED, PRINTED, OR STAMPED)

PERSONALLY KNOWN ✓ OR

PRODUCED IDENTIFICATION _____

NOTICE OF LEGISLATION
Notice is hereby given that the following bill will be presented to the 2006 Legislative Session of the Florida Legislature for consideration and enactment.
A bill to be entitled
An act codifying the Charter of the North Broward Hospital District and repealing Laws of Florida, chapters 27438 (1951), 61-1931, 61-1937, 63-1192, 65-1316, 65-1319, 67-1170, 67-1171, 69-895, 69-898, 69-914, 70-622, 71-567, 71-576, 71-578, 73-411, 73-412, 73-413, 74-449, 75-345, 75-348, 76-238, 77-508, 78-481, 80-464, 80-468, 81-354, 84-399, 86-369, 87-508, 90-485, 91-351, 97-372, and 2002-363; and all other laws or portions of laws in conflict with this act; providing an effective date.
BROWARD COUNTY LEGISLATIVE DELEGATION
REPRESENTATIVE ELEANOR SOBEL, CHAIR
CONTACT: Sandy Harris (954-357-6555)
December 31, 2005

HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION

BILL #: HB 1245
SPONSOR(S): Rep. Eleanor Sobel
RELATING TO: North Broward Hospital District
(Indicate Area Affected (City, County, Special District) and Subject)
NAME OF DELEGATION: Broward County Legislative Delegation
CONTACT PERSON: Sandy Harris
PHONE # and E-Mail: 928-9833 saharris@broward.org

- I. House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. **Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.**

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES ☒ NO ☐

(2) Has a public hearing been held? YES ☒ NO ☐

Date hearing held: 12/15/05

Location: Broward County Governmental Center

(3) Was this bill formally approved by a majority of the delegation members?
YES ☒ NO ☐ UNIT RULE ☐ UNANIMOUS ☐

- II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES ☒ NO ☐ DATE 12/31/05

Where? Sun-Sentinel County Broward County

Referendum in lieu of publication: YES ☐ NO ☒

- III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional taxation requirement been met?
YES ☐ NO ☐ NOT APPLICABLE ☒

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Eleanor Sobel 3/07/06
Delegation Chair (Original Signature) Date

House Committee on Local Government

2005 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House Community Affairs Committee that no bill will be considered by the Committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the House Community Affairs Committee as soon as possible after the bill is filed.

BILL #: HB 1245

SPONSOR (S): Rep. Eleanor Sobel

RELATING TO: North Broward Hospital District

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures: None

FY 05-06 FY 06-07

ANTICIPATED SOURCES (S) OF FUNDING:

Federal None

State None

Local None

FY 05-06 FY 06-07

III ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues None

FY 05-06 FY 06-07

IV ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

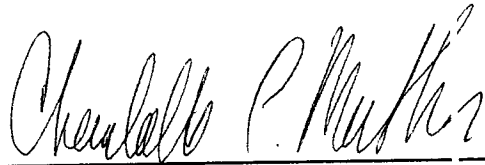
Advantages: None

Disadvantages: None

Economic Impact Statement
Page 2

- V ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR
EMPLOYMENT: None
- VI DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDING
SOURCES[S] OF DATA): None

Prepared by:



Charlotte C. Mather

TITLE: VP Government Relations & Public Affairs

REPRESENTING: North Broward Hospital District

PHONE: (954) 355-5180

HB 1245

2006

A bill to be entitled

An act relating the North Broward Hospital District,
Broward County; codifying, amending, reenacting, and
repealing chapters 27438 (1951), 61-1931, 61-1937, 63-
1192, 65-1316, 65-1319, 67-1170, 67-1171, 69-895, 69-898,
69-914, 70-622, 71-567, 71-576, 71-578, 73-411, 73-412,
73-413, 74-449, 75-347, 75-348, 76-338, 77-508, 78-481,
80-464, 80-468, 81-354, 84-399, 86-369, 87-508, 90-485,
91-351, 97-372, and 2002-363, Laws of Florida; codifying
the district charter; providing severability; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The reenactment of existing law in this
act shall not be construed as a grant of additional authority to
nor to supersede the authority of any entity pursuant to law.
Exceptions to law contained in any special act that are
reenacted pursuant to this act shall continue to apply.

(2) The reenactment of existing law in this act shall not
be construed to modify, amend, or alter any covenants,
contracts, or other obligations of the district with respect to
bonded indebtedness. Nothing pertaining to the reenactment of
existing law in this act shall be construed to affect the
ability of the district to levy and collect taxes, assessments,
fees, or charges for the purpose of redeeming or servicing
bonded indebtedness of the district.

28 Section 2. Chapters 27438 (1951), 61-1931, 61-1937, 63-
29 1192, 65-1316, 65-1319, 67-1170, 67-1171, 69-895, 69-898, 69-
30 914, 70-622, 71-567, 71-576, 71-578, 73-411, 73-412, 73-413, 74-
31 449, 75-347, 75-348, 76-338, 77-508, 78-481, 80-464, 80-468, 81-
32 354, 84-399, 86-369, 87-508, 90-485, 91-351, 97-372, and 2002-
33 363, Laws of Florida, are codified, reenacted, amended, and
34 repealed as provided in this act.

35 Section 3. The North Broward Hospital District is re-
36 created and the charter for the district is re-created and
37 reenacted to read:

38 Section 1. Created.--A special tax district is hereby
39 created and incorporated, to be known as the "North Broward
40 Hospital District" in Broward County, which district shall
41 embrace and include the following described property, situate,
42 lying, and being in Broward County:

43 Begin at a point where the North boundary line of
44 Section 25, Township 50 South, Range 42 East,
45 intersects the line of mean low tide of the Atlantic
46 Ocean; thence run westerly along the North boundary
47 line of Sections 25, 26, 27, 28, 29 and 30 in Township
48 50 South, Range 42 East, and continue westerly along
49 the North boundary line of Sections 25, 26, 27, 28, 29
50 and 30 in Township 50 South, Range 41 East, to the
51 westerly boundary of Range 41 East; thence southerly
52 along the westerly boundary line of said Section 30 to
53 a point of intersection with the North boundary line
54 of Section 25, Township 50 South, Range 40 East,
55 extended easterly; thence westerly along the North

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boundary line of Section 25, Township 50 South, Range 40 East, to the northwest corner of said Section; thence southerly along the west boundary line of said Section 25 and Section 36, Township 50 South, Range 40 East, and continuing southerly along the west boundary lines of Sections 1, 12, 13, 24, 25 and 36 of Township 51 South, Range 40 East, to the southwest corner of said Section 36, the same being the south boundary line of Broward County; thence westerly along the south boundary line of Broward County to the southwest corner of said County; thence northerly along the west boundary line of Broward County, Florida, to the northwest corner of said County; thence easterly along the northern boundary line of Broward County, Florida, to a point where the north boundary line of Broward County intersects the line of mean low tide of the Atlantic Ocean; thence southerly along the mean low tide line of the Atlantic Ocean to the point of beginning, together with all areas within the corporate limits of the City of Fort Lauderdale, lying south of the south boundary line of the above-described property.

Section 2. Subdistricts.--The North Broward Hospital District shall be composed of the following subdistricts:

(1) Subdistrict No. 1 shall include the areas of Broward County from the north boundary line thereof south to a line running east and west along the boundary line between the City of Pompano Beach and the City of Lighthouse Point and extended

east and west along the section lines which comprise said boundary to intersect with the Atlantic Ocean on the east and the western boundary of Broward County on the west.

(2) Subdistrict No. 2 shall include that area of Broward County south of the south boundary line of subdistrict No. 1 to a line running east and west along the center of McNab Road and extended east and west along the section lines which bisect the right-of-way of said McNab Road to intersect with the Atlantic Ocean on the east and the western boundary of Broward County on the west.

(3) Subdistrict No. 3 shall include that area of Broward County bounded on the north by the south boundary line of subdistrict No. 2, on the south along the center of Sunrise Boulevard, on the west by a line running north and south along the center of U.S. 441 (State Road #7), and on the east by the Atlantic Ocean.

(4) Subdistrict No. 4 shall include that area of Broward County bounded on the north by the south boundary line of subdistrict No. 3, on the south by the south boundary line of the North Broward Hospital District, on the west by a line running north and south along the center of U.S. 441 (State Road #7), and on the east by the Atlantic Ocean.

(5) Subdistrict No. 5 shall include that area of Broward County bounded on the north by the south boundary line of subdistrict No. 2, on the south by the south boundary line of the North Broward Hospital District, on the west by the western boundary of Broward County, and on the east by a line running north and south along the center of U.S. 441 (State Road #7).

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112 (6) Subdistrict No. 6 shall include that area of Broward
113 County which comprises the entire North Broward Hospital
114 District and shall be considered a subdistrict at large.

115 (7) Subdistrict No. 7 shall include that area of Broward
116 County which comprises the entire North Broward Hospital
117 District and shall be considered a subdistrict at large.

118 Section 3. Board of commissioners generally.--The
119 governing body of the North Broward Hospital District shall
120 consist of seven commissioners, one of whom may be a licensed
121 practitioner of the healing arts as defined in chapter 458,
122 Florida Statutes. All commissioners shall serve without
123 compensation. Each subdistrict shall have one representative on
124 the Board of Commissioners of the North Broward Hospital
125 District who has resided in said subdistrict for more than 1
126 year prior to appointment. Said commissioners shall be known and
127 designated as the Board Of Commissioners of North Broward
128 Hospital District. Members of the board of commissioners shall
129 be appointed by the Governor for terms of 4 years each. The
130 Governor shall have the power to remove any member of said board
131 of commissioners for cause and shall fill any vacancies that may
132 at any time occur therein. Each member shall give bond to the
133 Governor for the faithful performance of his or her duties in
134 the sum of \$5,000 with a surety company qualified to do business
135 in the state, as surety, which bond shall be approved and kept
136 by the Clerk of the Circuit Court of Broward County. The
137 premiums on said bonds shall be paid as part of the expenses of
138 said district.

139 Section 4. Powers of board of commissioners generally.--

140 (1) The Board of Commissioners of the North Broward
 141 Hospital District shall have all the powers of a body corporate,
 142 including the power to sue and be sued under the name of the
 143 North Broward Hospital District; to contract and be contracted
 144 with; to adopt and use a common seal and to alter the same at
 145 pleasure; to acquire, purchase, hold, lease as lessee or lessor,
 146 and convey such real and personal property as said board may
 147 deem proper or expedient to carry out the purposes of this act
 148 (any lease of real or personal property entered into by the
 149 board of commissioners shall be for such terms as the board of
 150 commissioners determines is in the best interest of the
 151 district); to appoint and employ a superintendent and such other
 152 agents and employees as said board may deem advisable; to borrow
 153 money, incur indebtedness, and issue notes, revenue
 154 certificates, bonds, and other evidences of indebtedness of said
 155 district; to establish and support subsidiary or affiliate
 156 organizations to assist the district in fulfilling its declared
 157 public purpose of providing for the health care needs of the
 158 people of the district and, to the extent permitted by the State
 159 Constitution, to support not-for-profit organizations that
 160 operate primarily within the district, as well as elsewhere, and
 161 that have as their purposes the health care needs of the people
 162 of the district by means of nominal interest loans of funds,
 163 nominal rent leases of real or personal property, gifts and
 164 grants of funds, or guaranties of indebtedness of such
 165 subsidiaries, affiliates, and not-for-profit organizations (any
 166 such support of a subsidiary or affiliate corporation or
 167 nonaffiliated, not-for-profit corporation is hereby found and

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168 declared to be a public purpose and necessary for the
169 preservation of the public health and for public use and for the
170 welfare of the district and inhabitants thereof); to the extent
171 permitted by the State Constitution, to participate as a
172 shareholder in a corporation, or as a joint venture in a joint
173 venture, which provides health care or engages in activities
174 related thereto, to provide debt or equity financing for the
175 activities of such corporations or joint ventures, and to
176 utilize, for any lawful purpose, the assets and resources of the
177 district to the extent not needed for health care and related
178 activities; and to carry out the provisions of this charter in
179 the manner hereinafter provided. Said board of commissioners,
180 pursuant to chapter 218, Florida Statutes, is authorized and
181 empowered, as the board of a special tax district of the state,
182 to invest district "surplus funds," as defined in that chapter,
183 in such a manner as allowed under section 218.415 Florida
184 Statutes, or by any general law amending or superseding section
185 218.415, Florida Statutes. The board of commissioners shall also
186 have the power to delegate its authority to invest these surplus
187 funds, as outlined above, to a state or national banking
188 organization acting pursuant to a written trust agreement as a
189 trustee of district funds, provided that such delegation is made
190 in writing by the board of commissioners.

191 (2) In addition to any investment authorized by general
192 law, and to the extent created by the State Constitution, the
193 board of commissioners shall be and is hereby authorized and
194 empowered to invest any funds in its control or possession in
195 accordance with an investment policy approved by the board which

196 mandates prudent investment practices, which shall include,
197 among other items, the investment objectives and permitted
198 securities of the policy. Such investment policy shall be
199 designed to maximize the financial return to the fund consistent
200 with the risks incumbent in each investment and shall be
201 designed to preserve the appropriate diversification of the
202 portfolio. Accordingly, the following instruments are authorized
203 for investment:

204 (a) Bankers' acceptances that are drawn upon and accepted
205 by a commercial bank that is a member bank of the Federal
206 Reserve System, that maintains capital accounts in excess of 7.5
207 percent of total assets, and which member bank or its holding
208 company carries a credit rating that is one of the two highest
209 alphabetical categories from at least two nationally recognized
210 debt-rating agencies.

211 (b) Commercial paper of prime quality rated by at least
212 two nationally recognized debt-rating agencies in the highest
213 letter and numerical rating of each agency. If not rated, such
214 prime quality commercial paper may be purchased if secured by a
215 letter of credit provided by a commercial bank, which bank or
216 its holding company carries a credit rating in one of the two
217 highest alphabetical categories from at least two nationally
218 recognized debt-rating agencies.

219 (c) Interest-bearing bonds, debentures, and any other such
220 evidence of indebtedness with a fixed maturity of any domestic
221 corporation within the United States which is listed on any one
222 or more of the recognized national stock exchanges in the United
223 States and conforms with the periodic reporting requirements

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224 under the Securities Exchange Act of 1934. Such obligation shall
225 either carry ratings in one of the two highest classifications
226 of at least two nationally recognized debt-rating agencies or be
227 secured by a letter of credit provided by a commercial bank,
228 which bank or its holding company carries a credit rating in one
229 of the two highest alphabetical categories from at least two
230 nationally recognized debt-rating agencies.

231 (d) Negotiable direct obligations of, or obligations the
232 principal and interest of which are unconditionally guaranteed
233 by, the United States Government at the then-prevailing market
234 rate for such securities; and obligations of the Federal Farm
235 Credit Banks, Federal Home Loan Mortgage Corporation, Federal
236 National Mortgage Association, or Federal Home Loan Bank or its
237 district banks, including Federal Home Loan Mortgage Corporation
238 participation certificates, or obligations guaranteed by the
239 Government National Mortgage Association, which are purchased
240 and sold under repurchase agreements and reverse repurchase
241 agreements. Repurchase agreements and reverse repurchase
242 agreements may be entered into only with a member bank of the
243 Federal Reserve System or primary dealer in United States
244 government securities. Securities purchased or repurchased by
245 the hospital board shall be delivered to the hospital board or
246 its agent versus payment.

247 (e) The purchase of options so as to engage in bona fide
248 hedging activities for the purpose of protecting the asset value
249 of the underlying portfolio, provided the instruments for such
250 purpose are traded on a securities exchange or board of trade

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regulated by the Securities and Exchange Commission or the
Commodities Futures Trading Commission.

(f) Equity securities of any corporation that is organized
under the laws of the United States, any state, or the District
of Columbia and that is listed on any one or more of the
recognized national stock exchanges in the United States and
conforms with the periodic reporting requirements under the
Securities Exchange Act of 1934. Such securities must carry a
rating in one of the two highest alphabetical categories from at
least two nationally recognized equity ratings agencies.

(3) The Board of Commissioners of the North Broward
Hospital District shall have the power to enter into and
execute:

(a) Any contract known or referred to as, or which
performs the function of, an interest rate swap agreement,
forward payment conversion agreement, or futures contract.

(b) Any contract providing for payments based on levels
of, or changes or differences in, interest rates.

(c) Any contract to exchange cash flows, payments, or
series of payments.

(d) Any type of contract called or designed to perform the
function of interest rate floors or caps, options, puts, or
calls to hedge or minimize any type of financial risk,
including, without limitation, payment, rate, or other financial
risk.

(e) Any other type of contract or arrangement that the
Board of Commissioners of the North Broward Hospital District
determines is to be used, or is intended to be used, to manage

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or reduce the cost of indebtedness, to convert any element of
indebtedness from one form to another, to maximize or increase
investment return, to minimize investment return risk, or to
protect against any type of financial risk or uncertainty.

Section 5. Board of commissioners; rules of
procedure.--Four commissioners shall constitute a quorum, and a
vote of at least three commissioners shall be necessary to the
transaction of any business of the district. The commissioners
shall cause true and accurate minutes and records to be kept of
all business transacted by them and shall keep full, true, and
complete books of account and minutes, which minutes, records,
and books of account shall at all reasonable times be open and
subject to the inspection of inhabitants of said district, and
any person desiring to do so may make or procure copy of said
minutes, records, books of account, or such portions thereof as
he or she may desire.

Section 6. Authority to establish and maintain health care
facilities.--The board of commissioners is hereby authorized and
empowered to establish, construct, operate, and maintain such
hospital or hospitals, supportive facility or facilities,
including offices for physicians and other medically related
personnel, entities, and activities, and facilities for the care
of such persons requiring limited medical care and treatment as
in their opinion shall be necessary for the needs and use of the
people of said district. Said hospital or hospitals, supportive
facility or facilities, and facilities for limited care and
treatment shall be established, constructed, operated, and
maintained by said board of commissioners for the preservation

307 of the public health, for the public good, and for the use of
 308 the public of said district, and the maintenance of said
 309 hospital or hospitals, supportive facility or facilities, and
 310 facilities for limited care and treatment within said district
 311 is hereby found and declared to be a public purpose and
 312 necessary for the preservation of the public health and for
 313 public use and for the welfare of said district and inhabitants
 314 thereof. The location, establishment, operation, and maintenance
 315 of such hospital or hospitals, supportive facility or
 316 facilities, and facilities for limited care and treatment, as
 317 well as the terms, conditions, and consideration for the use
 318 thereof, shall be as determined and fixed by said board of
 319 commissioners and shall be under the exclusive authority of said
 320 board. The provisions and procedures shall be without reference
 321 to section 20. The board of commissioners is hereby further
 322 authorized and empowered to establish, operate, or support such
 323 subsidiaries, either for profit or not for profit, and not-for-
 324 profit affiliates for the furtherance and assistance of the
 325 district's fulfilling its purpose of provision for the health
 326 care needs of the people of the district as in the board's
 327 opinion shall be necessary. The board of commissioners is hereby
 328 further authorized and empowered, to the extent permitted by the
 329 State Constitution, to support nonaffiliated, not-for-profit
 330 organizations that operate primarily within the district, as
 331 well as elsewhere, and that have as their purpose the
 332 furtherance of the district's provision for the health care
 333 needs of the people of the district, by such means as in the
 334 board's opinion are necessary and appropriate. The board of

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commissioners is hereby further authorized, to the extent permitted by the State Constitution, to participate in, and to provide debt or equity financing for, a corporation in which the district is a shareholder or a joint venture in which the district is a joint venturer, so long as any such corporation or joint venture provides health care services or engages in activities related thereto that benefit the people of the district, as well as others. The establishment, operation, or support of such subsidiaries or affiliates, the support of such nonaffiliated, not-for-profit organizations, and the participation in and funding of such health care corporations or joint ventures are each hereby found and declared to be a public purpose and necessary for the preservation of the public health and welfare of the district and inhabitants thereof. Notwithstanding the provisions of its charter, the district shall comply with the requirements of section 155.40(2)(a)-(e), Florida Statutes, in implementing the powers provided in this section, section 4, and subsection (4) of section 20.

Section 7. Nurse training schools; medical training and research programs.--

(1) The board of commissioners is hereby authorized and empowered at any time in its discretion to establish and maintain, in connection with such hospital and as a part thereof, in accordance with state laws and regulations, a training school for nurses and, upon completion of a prescribed course of training, shall give to such nurses who have satisfactorily completed the course a diploma. The board of commissioners is authorized and empowered to set up all rules

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and regulations necessary for the operation of a nurses training school and to make all necessary expenditures in connection therewith.

(2) The board of commissioners is further authorized and empowered to establish and maintain such clinics, medical training, and medical research programs in connection with the operation of district hospitals, including the training of interns and resident physicians, as the board of commissioners, in their discretion, might determine to be necessary or beneficial to the professional services in the district hospitals.

Section 8. Eminent domain.--The board shall have the power of eminent domain and may thereby condemn and acquire any real or personal property within the territorial limits of the district which the board may deem necessary for the use of said district. Such power of condemnation shall be exercised in the same manner as is now provided by general law for the exercise of the power of eminent domain by cities and towns of the state.

Section 9. Indebtedness generally.--

(1) In this act:

(a) The term "anticipation notes" means indebtedness authorized pursuant to subsections (2)-(6) which is payable from funds of the district as set forth therein.

(b) The term "indebtedness" means any bonds, notes, certificates, lease participations, guaranties, or other forms of indebtedness payable from general revenues and other legally available funds of the district.

390 (2) The district may, in order to provide facilities,
391 including real and personal property, and to carry out,
392 exercise, and perform its powers and duties, and for any other
393 lawful purpose, borrow money from time to time as the board
394 determines is in the best interest of the district and issue and
395 sell the anticipation notes of the district and refund the same
396 by issuing the refunding anticipation notes of the district, all
397 upon such terms and having such maturities, form, and terms as
398 may be determined by the board of commissioners or, if issued in
399 the form of commercial paper, as may be determined by the chair,
400 the vice chair, or the secretary-treasurer within guidelines and
401 limits determined by the board of commissioners as provided in
402 this section. The rate or rates of interest for such borrowing
403 shall be as provided by general law. Further, all indebtedness
404 incurred by the district shall, where required by the State
405 Constitution, be contingent upon voter approval.

406 (3) The district may borrow money and issue bond
407 anticipation notes in anticipation of the issuance of bonds, all
408 as provided in general law; expend the proceeds thereof for the
409 purposes for which such bonds are to be issued; and pledge, by
410 resolution or contract, the proceeds to be derived from the sale
411 of such bonds and other legally available funds of the district
412 for the payment of the principal thereof, premium therefor, if
413 any, and interest thereon.

414 (4) The district may borrow money and issue grant
415 anticipation notes having such maturity as the board may
416 determine in anticipation of the receipt of any federal, state,
417 private, or other grant; expend the proceeds thereof for the

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purposes for which such grant has been made; and pledge, by
resolution or contract, the moneys to be received from such
grant and other legally available funds of the district for the
payment of the principal thereof, premium therefor, if any, and
interest thereon.

(5) The district may borrow money and issue revenue
anticipation notes having such maturity as the board may
determine in anticipation of the receipt of revenues; expend the
proceeds thereof for any other lawful purpose; and pledge, by
resolution or contract, revenues of the district for the payment
of the principal thereof, premium therefor, if any, and interest
thereon.

(6) The district may borrow money and issue tax
anticipation notes having such maturity as the board may
determine and levy, appropriate, and pledge, by resolution or
contract, ad valorem taxes and other legally available funds of
the district in payment of the principal thereof, premium
therefor, if any, and interest thereon.

(7) The district may issue, from time to time,
indebtedness (which may be denominated as notes or bonds) of the
district for the purpose of paying all or part of the cost of
acquisition, construction, planning, and repairing of,
extensions and additions to, and equipping, furnishing, and
reconstruction of any hospital or hospitals or related
facilities incidental to the foregoing as in the opinion of the
board of commissioners are necessary or beneficial for the
district, for refinancing any indebtedness incurred to finance
any of the foregoing, or for reimbursement of the district for

any cost it incurred for any of the foregoing. The indebtedness of each issuance shall be dated, shall mature at such time or times not exceeding 50 years after their date or dates, shall be in such denominations, shall bear interest at such rate or rates, including variable rates, allowed by general law, and may be made redeemable before maturity at the option of the board of commissioners at such price or prices and under such terms and conditions as may be fixed by the board of commissioners prior to the issuance of the indebtedness.

(8) The district may issue all forms of indebtedness described in subsections (3)-(7) in the form of commercial paper and, if issued in such form, the resolution authorizing the issuance thereof may provide for the renewal, refunding, or rollover thereof from time to time, having such maturity as the board shall determine. The resolution authorizing the issuance of such indebtedness in the form of commercial paper may set forth guidelines and limits pertaining to the maximum aggregate principal amount of such indebtedness which may be outstanding at any one time, the longest maturity any such indebtedness may bear, the form of such indebtedness, the terms (including redemption provisions, the maximum redemption premium which may be permitted, schedules for the amortization of principal and interest which may be permitted, and such other provisions as the board of commissioners may determine), and the maximum rate of interest authorized by general law and may authorize the chair, the vice chair, the secretary-treasurer, or any one or more of them, from time to time, to determine, within such guidelines and limits, the date or dates on which said

474 indebtedness shall be issued, the aggregate principal amount of
475 indebtedness to be issued at such time, the maturity date or
476 dates of such indebtedness, and the form and terms of such
477 indebtedness (including provisions for redemption thereof, the
478 amount of any redemption premium, the schedule for the
479 amortization of principal and payment of interest, and other
480 provisions as authorized by the board) and to sell, issue, and
481 deliver the same pursuant to such authorization. Any resolution
482 authorizing a negotiated sale of indebtedness in the form of
483 commercial paper to any class of purchaser may likewise
484 authorize the negotiated sale of renewal, refunding, or rollover
485 indebtedness to such class of purchaser and may contain such
486 other provisions as the board may authorize.

487 (9) Any indebtedness authorized pursuant to subsections
488 (3) - (7) may be issued in the form of demand obligations or
489 obligations which the holder thereof may request payment for by
490 the district upon the occurrence of specified events. The board
491 of commissioners shall determine the form of such indebtedness,
492 which shall be executed according to general law, and shall fix
493 the denomination or denominations of indebtedness and the place
494 or places of payment of principal of and interest thereon, which
495 may be at any bank or trust company within or without the state.
496 All forms of indebtedness shall be executed in the name of the
497 district by the chair of the board of commissioners and
498 countersigned and attested by the secretary of the board, and
499 its corporate seal or facsimile shall be attached thereto or
500 reproduced thereon, all in the manner provided by the resolution
501 authorizing such indebtedness. All indebtedness issued under the

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provisions of this act is hereby declared to have all the
qualities and incidents of negotiable instruments under the
Uniform Commercial Code and the laws of this state. Such
indebtedness shall be issuable in bearer form or shall be
registrable in the name of the owner or nominee thereof in the
manner provided by general law.

(10) The district is hereby authorized to enter into
agreements providing for the issuance, repayment, and securing
of letters of credit, insurance, or any other credit enhancement
device with any financial institution, as the board of
commissioners may determine, to further secure any of its
indebtedness.

Section 10. Bonds.--District bonds shall be issued or sold
in such manner and at such rate or rates of interest as
authorized by general law. Such bonds may be sold at par or at
such premium or discount as the board of commissioners
determines, in keeping with general law.

Section 11. Acceptance of promissory notes.--The board of
commissioners is hereby authorized and empowered, in order to
provide for and carry out the purposes of this act, to
compromise and settle any accounts receivable or other claim for
money due and owing to the district through the acceptance of
promissory notes according to such terms and conditions as the
board, in its discretion, may determine; however, said board of
commissioners is hereby prohibited from assigning, selling, or
setting over said promissory note to commercial institutions or
private collection agencies for collection.

529 Section 12. Payment of funds.--The funds of the North
530 Broward Hospital District shall be paid out and disbursed
531 according to the manner and procedure established by the board
532 of commissioners of said district. The board of commissioners is
533 hereby authorized and empowered to designate disbursing agents
534 to act on behalf of the North Broward Hospital District for
535 approval of warrants for payment and for the execution of checks
536 and drafts upon district accounts.

537 Section 13. Property tax authorized.--The Board of
538 Commissioners of the North Broward Hospital District is hereby
539 authorized, empowered, and directed annually to levy upon all
540 the real and personal taxable property in said district a
541 sufficient tax, not to exceed 2.5 mills, necessary for the
542 purposes herein granted and to levy other lawful taxes to pay
543 interest and provide and maintain a sinking fund for payment of
544 interest and principal of the bonds provided for and authorized
545 by this act.

546 Section 14. Property tax levy.--The levy by said board of
547 commissioners of the taxes authorized by any provision of this
548 act shall be by resolution of said board duly entered upon the
549 minutes of the board. Certified copies of such resolution
550 executed in the name of the board by its chair, under its
551 corporate seal, shall be made and delivered to the Board of
552 County Commissioners of Broward County and to the Florida Chief
553 Financial Officer not later than 60 days after the millage is
554 certified by the property appraiser or such other time as may be
555 specified by general law. It shall be the duty of the County
556 Commissioners of Broward County to order and require the county

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557 property appraiser of said county to assess, and the county tax
558 collector of said county to collect, the amount of taxes so
559 assessed or levied by the board upon the taxable property in
560 said district, not exempt by law, at the rate of taxation
561 adopted by said board of commissioners of said district for said
562 year and included in the warrant of the property appraiser and
563 attached to the assessment roll of taxes for said county each
564 year. The tax collector shall collect such tax so levied by said
565 board in the same manner as other taxes are collected and shall
566 pay the same over to the Board of Commissioners of the North
567 Broward Hospital District within the time and in the manner
568 prescribed by law for the payment by the tax collector of county
569 taxes to the county depository. It shall be the duty of the
570 Florida Chief Financial Officer to assess and levy taxes on all
571 the railroad lines and railroad property and telegraph lines and
572 telegraph property situated or located in said district,
573 including all telephone lines. The taxes shall be assessed by
574 the same officer as are county taxes upon such property, and
575 such taxes shall be remitted by the collecting officer to the
576 Board of Commissioners of the North Broward Hospital District.
577 All such taxes shall be held by said board of commissioners and
578 paid out by them as provided in this act. The board is
579 authorized to pay necessary expenses to the aforementioned officers
580 for the assessment and collection of taxes on a reasonable fee
581 basis.

582 Section 15. Payment of district expenses.--The board of
583 commissioners is authorized to pay from the funds of the
584 district all expenses of the organization of said board, all

expenses necessarily incurred with the formation of said
district, and all other reasonable and necessary expenses,
including the fees and expenses of an attorney in the
transaction of the business of the district and in carrying out
and accomplishing the purposes of this act. This section,
however, shall not be construed to restrict any of the powers
vested in said board of commissioners by any other section or
provision of this act.

Section 16. Publication of annual financial statement.--At
least once in each year, the board of commissioners shall
publish once in a newspaper published in the district a complete
detailed statement of all moneys received and disbursed by them
since the creation of the district as to the first published
statement and since the last published statement as to any other
year. Such statement shall also show the several sources from
which said funds were received and shall show the balance on
hand at the time of the published statement. It shall show a
complete statement of the condition of the district.

Section 17. Persons authorized to be treated at
facilities.--Each hospital or clinic established under this act
shall be for the use and benefit of the residents of the
district. Such residents shall be admitted to such hospital or
clinic and be entitled to hospitalization, subject, however, to
the rules and regulations prescribed by the board of
commissioners, which rules and regulations are effective as of
the date of admission of a patient or patients to said hospital
or clinic. Such hospital or clinic may care for and treat
without charge patients who are found by the board of

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613 commissioners to be indigent, but such board may collect from
614 patients financially able such charges as the board of
615 commissioners may from time to time establish. The board of
616 commissioners may exclude from treatment and care any person
617 having a communicable or contagious disease, where such disease
618 may be a detriment to the best interests of such hospital or
619 clinic or a source of contagion or infection to the patients in
620 its care, unless such hospital has a separate building or ward
621 for the special treatment of such patients and can properly and
622 with safety to the other patients retain such communicable or
623 contagious case in such separate ward or building. Said board of
624 commissioners may extend the privileges and use of such hospital
625 or clinic to nonresidents of the district upon such terms and
626 conditions as the board may from time to time by its rules and
627 regulations provide; however, the residents of the district
628 wherein such hospital or clinic is located shall have first
629 claim to admission.

630 Section 18. Medical staff generally.--

631 (1) The Board of Commissioners of the North Broward
632 Hospital District shall authorize and establish one medical
633 staff for the direction and control of the practitioners, and to
634 ensure the performance of necessary professional services, in
635 the hospitals and facilities operated by the North Broward
636 Hospital District. The board of commissioners is hereby
637 authorized and empowered to establish reasonable bylaws, rules,
638 and regulations thereof and to prescribe and establish in said
639 bylaws, rules, and regulations reasonable professional duties
640 and responsibilities for members of the staff so that the

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welfare and health of the patients and the best interest of the hospitals may at all times be served.

(2) The board of commissioners is hereby authorized and empowered to grant or refuse, revoke, and suspend membership on the staff and to grant or refuse, revoke, or suspend any privileges attendant to such membership so that the welfare and health of the patients and the best interest of the hospitals may at all times be best served. In addition:

(a) The board of commissioners is hereby authorized and empowered to establish such standards of good moral character, professional ethics, professional competency, and professional conduct to be prerequisites for membership on the staff as the board, in its reasonable discretion, shall determine to be necessary for the protection of the health and welfare of the patients and the hospital, but the failure of the board of commissioners to establish such standards by rule or regulation shall not destroy the power of the board to determine membership on the staff according to the authority, requirements, and standards otherwise prescribed by this act. The board of commissioners is further authorized and empowered to require members of the staff to abide by all the rules, regulations, and bylaws established by the board of commissioners under the authorization of this act; to require the performance of those professional duties and responsibilities prescribed by said rules, regulations, and bylaws; and to enforce such requirements by the revocation and suspension of staff membership and privileges. No person shall be eligible for membership on the staff, be eligible for any privilege of the practice of medicine

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669 in any hospital or facility operated by said district, or retain
670 or possess any membership upon the staff or any privilege of the
671 practice of medicine in any of said hospitals or facilities
672 unless he or she is a graduate of a medical school recognized
673 and approved by the Florida Board of Medicine with the degree of
674 doctor of medicine and possesses a valid license to practice
675 medicine as prescribed and required by chapter 458, Florida
676 Statutes, or, in the alternative, unless he or she possesses a
677 valid license from the Florida Board of Dentistry to practice
678 dentistry as prescribed and required by chapter 466, Florida
679 Statutes.

680 (b) Whenever the board of commissioners considers the
681 refusal, revocation, or suspension for a period of more than 30
682 days of staff membership of any person, or any privileges
683 attendant to such membership, a hearing shall be held before the
684 board of commissioners, or before such examining board as the
685 board of commissioners might establish for the purpose of taking
686 and hearing testimony and evidence and reporting to the board
687 thereon, upon the objections to such person's membership and
688 privileges.

689 (c) Whenever a hearing upon the staff membership and
690 privileges of any person is required by this act, reasonable
691 notice shall be given to the person concerned by registered mail
692 of the time and place of such hearing, and the nature of the
693 objections to the person's membership and privileges shall be
694 made solely upon the record of such hearing and the findings and
695 conclusions made therefor.

(d) The board of commissioners, or such administrative personnel and personnel of the staff and hospitals as the board may authorize and designate, is authorized and empowered to suspend any membership on the staff, and any or all privileges attendant thereto, for a period of less than 31 days without hearing prior to such suspension whenever it appears that delay in such suspension would cause an immediate danger to the hospital or any patient thereof or whenever it appears that the suspended physician has failed to abide by a prescribed rule of administrative or staff procedure in willful or negligent violation of hospital discipline. It is further provided that any staff member suspended for a period of less than 31 days without hearing shall, upon written request to the chair of the board of commissioners, be granted by said chair a speedy hearing in the same manner and according to the same procedure as prescribed for other determinations of staff membership and privileges.

(e) A decision of the board of commissioners to refuse, revoke, or suspend membership on the staff or to refuse, revoke, or suspend any privilege attendant to such membership is hereby declared to be a quasi-judicial function of the board, and any hearing held for the purpose set forth in this section shall be held and conducted in accordance with general law relating to quasi-judicial hearings and determinations. Judicial review of such decision shall be by certiorari to the Fourth District Court of Appeal in the time and manner prescribed by the Florida Appellate Rules unless the provisions of such appellate rules confer exclusive jurisdiction upon the Supreme Court of Florida.

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724 The board of commissioners shall establish such rules of
725 procedure for hearing required by this act as are reasonably
726 necessary to ensure an orderly, fair, and impartial proceeding
727 in which all facts relevant to the objections to the person's
728 membership and privileges may be heard by the examining
729 authority.

730 (f) The testimony at any hearing required by this section
731 shall be stenographically or mechanically recorded, and such
732 record shall thereafter be transcribed. Such transcription,
733 together with all notices to the person concerned; all
734 documents, exhibits, and demonstrative evidence submitted to the
735 examining authority for consideration at the hearing; all
736 findings and recommendations of the examining authority, if any;
737 and all findings and decisions of the board of commissioners
738 relevant to those proceedings shall be preserved by the district
739 as a permanent record of the proceedings. The physician
740 concerned shall be entitled to a copy or copies of such
741 permanent record, certified by the chair of the board of
742 commissioners to be a true copy thereof, upon written request
743 and payment of a reasonable cost of preparation.

744 (g) All documents, testimony, and evidence relevant to the
745 proceeding or the issues thereof and the official record of such
746 proceeding shall be confidential to the North Broward Hospital
747 District and the physician concerned, or his or her attorneys
748 and agents, as provided by law. After the final decision of the
749 board of commissioners upon the refusal, revocation, or
750 suspension of membership on the staff or the privileges
751 attendant thereto, the official record of such proceeding as

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required by this act may be made public upon the mutual
agreement of the board of commissioners and the physician
concerned or may be made public by the filing thereof with a
court of law for purposes of judicial review.

(3) The Board of Commissioners of the North Broward
Hospital District is hereby authorized and empowered to employ
professional and nonprofessional personnel necessary to the
effective and lawful operation of the hospital and facilities of
the district, including, but not limited to:

(a) Registered, practical, and student nurses and nurse's
aides.

(b) Physicians licensed or approved by the Florida Board
of Medicine necessary to provide emergency medical care and
treatment in the emergency rooms of the district hospitals.

(c) Interns and resident physicians who are engaged in an
authorized medical training program of the district.

(d) Physicians licensed by the Florida Board of Medicine
and technicians specially trained in the basic sciences allied
with, and necessary to, the practice of medicine who are
necessary to an authorized medical training program of the
district or who are necessary to provide professional advice and
services to medical staff physicians.

All physicians employed by the North Broward Hospital District
as authorized in this subsection shall be members of the medical
staff and subject to the medical staff bylaws, rules, and
regulations.

779 (4) The Board of Commissioners of the North Broward
780 Hospital District is further authorized and empowered to
781 establish reasonable rules and regulations to govern the
782 operation of district hospitals and facilities and to govern and
783 control the conduct of all employees, patients, private duty
784 nurses, guests, visitors, or any other parties or persons who
785 are in any manner upon or using the premises and facilities of
786 any district hospital or facility so that the health and welfare
787 of the patients and the best interest of the hospital will at
788 all times be served.

789 Section 19. Pension plan and insurance benefits for
790 employees.--The North Broward Hospital District is authorized
791 and empowered to create an employees' pension fund to provide
792 for life, disability, and medical insurance for all or any of
793 its employees or officers on a group insurance or other
794 acceptable plan approved by said Board of Commissioners of North
795 Broward Hospital District; to establish and create by resolution
796 an employees' pension, annuity, and retirement plan for any and
797 all groups of officers and employees employed by the North
798 Broward Hospital District and qualifying for such plan; and to
799 pay all or such portion of the cost of any such employees'
800 pension, annuity, and retirement plan from funds available to
801 the district from its authorized sources, with the employees
802 defraying the balance thereof, if any, as said board of
803 commissioners by resolution may determine for any and all groups
804 of officers and employees employed by said North Broward
805 Hospital District. The Board of Commissioners of the North
806 Broward Hospital District is authorized to invest and reinvest

807 available funds of the pension fund in accordance with the
808 provisions of sections 215.44-215.53, Florida Statutes.

809 Section 20. Sale or lease of property.--The board of
810 commissioners is authorized and empowered to lease or sell any
811 real or personal property owned by the North Broward Hospital
812 District or to otherwise relinquish and dispose of the
813 district's title in such property according to the following
814 terms and conditions:

815 (1) Any real or personal property of a fair value of less
816 than an amount to be determined from time to time by resolution
817 of the board of commissioners may be sold, or the title disposed
818 of, according to the manner and procedure and the terms and
819 conditions the board of commissioners at the time might
820 determine.

821 (2) Any real or personal property of a fair value in
822 excess of the amount established from time to time by resolution
823 of the board of commissioners pursuant to subsection (1) may be
824 sold or disposed of after the board of commissioners has
825 determined by appropriate resolution that such property is
826 surplus to the needs and requirements of the district and after
827 the board of commissioners has submitted the property to the
828 general public for offers by publishing a notice of intent to
829 dispose of property in a newspaper of general circulation in the
830 North Broward Hospital District at least 30 days in advance of
831 such sale or other disposition. Any person desiring such
832 property shall submit his or her offer to buy to the board of
833 commissioners during such 30-day period, or during such longer
834 period as the board might establish, along with the terms and

835 conditions of such offer. The published notice shall be
836 sufficient if it reasonably identifies the property in question
837 and informs any persons interested in such property that the
838 board of commissioners desires to dispose of said property and
839 seeks offers to buy thereon. It is not required that such notice
840 specify the terms or conditions desired by the district, and if
841 such terms and conditions are included in such notice or
842 otherwise provided, they are to be for general information only
843 and shall not prevent the board of commissioners from accepting
844 different terms and conditions which the board might determine
845 to be more beneficial to the district. Offers submitted by the
846 bidders are not required to be sealed or to be kept confidential
847 to the district, unless otherwise specified in the published
848 notice, and any bidder may submit any number of alternate offers
849 at any time during the bidding period.

850 (3) The board of commissioners is hereby authorized and
851 empowered to accept any bid upon surplus property and to sell or
852 otherwise convey said property in accordance with the provisions
853 of this section or to reject all the bids as the board of
854 commissioners might determine to be in the best interests of the
855 district.

856 (4) The board of commissioners is authorized and empowered
857 to convey to Broward County, to any municipality or any other
858 governmental body or agency of the state or of the United States
859 located partially or entirely within the boundaries of the North
860 Broward Hospital District, to any subsidiary, either for profit
861 or not for profit, to any not-for-profit affiliate of the
862 district, or to any not-for-profit organization that operates

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primarily within the district and that supports the district's
provision for the health care needs of the people of the
district any property for a nominal consideration and according
to those terms and conditions as the board of commissioners may
at that time determine, regardless of the value of such
property, whenever it appears to the board of commissioners that
such conveyance would be in the best interests of the district
and the residents thereof; however, such conveyance for nominal
consideration to other than such subsidiaries, affiliates, or
not-for-profit organizations as described in this subsection
shall not be made until at least 30 days after the terms and
conditions thereof have been published in a newspaper of general
circulation in the North Broward Hospital District or until
residents and taxpayers of the district have been afforded an
opportunity to be heard upon such conveyance at a regular
meeting of the board of commissioners. It is further provided,
however, that the board of commissioners is authorized to give,
grant, sell, or convey any easements or rights-of-way for the
use of the public, for the use of public utilities, or to
support in any manner deemed necessary and appropriate by the
board of commissioners a subsidiary, affiliate, or not-for-
profit organization as described in this subsection without any
requirement for advertising or public hearing.

Section 21. Donations to district.--Any person or persons,
firm, organization, corporation, or society, public or private,
desiring to make donations of money, personal property, or real
estate for the benefit of such district shall have the right to
vest title of the money, personal property, or real estate so

891 donated in said county to be controlled when accepted by the
 892 commissioners of said district according to the terms of the
 893 deed, gift, devise, or bequest of such property.

894 Section 22. Acquisition of property from the City of Fort
 895 Lauderdale.--The Board of Commissioners of the North Broward
 896 Hospital District is authorized and empowered to acquire, by
 897 gift, purchase, lease, or otherwise, personal or real property
 898 for the benefit of such hospital or hospitals; to enter into
 899 agreements or contracts in the acquisition of such real estate
 900 or personal property; and to pledge, encumber, or mortgage the
 901 acquired property as security for the debt incurred in the
 902 acquisition or purchase thereof. Notwithstanding the Charter of
 903 the City of Fort Lauderdale to the contrary, the Board of
 904 Commissioners of the North Broward Hospital District and the
 905 City of Fort Lauderdale are authorized and empowered to
 906 negotiate for the sale, transfer, acquisition, purchase, or
 907 conveyance of the present hospital or hospitals now owned by the
 908 City of Fort Lauderdale under such terms, conditions, and
 909 agreements as are acceptable to the City of Fort Lauderdale and
 910 to the district. All sales, transfers, or conveyances by the
 911 City of Fort Lauderdale to the North Broward Hospital District
 912 are hereby declared to be valid and binding, and all laws in
 913 conflict therewith are hereby declared to be repealed and
 914 invalid.

915 Section 23. Establishment of hospitals without issuance of
 916 bonds.--If the Board of Commissioners of the North Broward
 917 Hospital District, by reason of funds on hand, donations, or
 918 otherwise, is able to build and establish a hospital or

919 hospitals without issuing bonds, the board of commissioners is
920 hereby authorized and empowered to establish such hospital or
921 hospitals.

922 Section 24. Competitive bids to be sought; procedure;
923 authority to negotiate contracts; group purchasing.--

924 (1)(a) All purchases of supplies, equipment, and materials
925 for use in the operation and maintenance of a hospital or
926 hospitals in excess of an amount to be determined from time to
927 time by resolution of the board of commissioners not to exceed
928 1.5 mills of the total annual district revenues, and all
929 contracts for construction of improvements authorized under this
930 act at a contract price in excess of said amount, shall be
931 approved only after competitive conditions have been maintained
932 and competitive bids sought from at least three different
933 sources of supply, but this does not necessarily require
934 newspaper advertising. The board of commissioners shall have the
935 authority to modify or negotiate to the extent provided in
936 subsection (2).

937 (b) All purchases of supplies, equipment, and materials
938 for use in the operation and maintenance of a hospital or
939 hospitals in excess of an amount to be established from time to
940 time by resolution of the board of commissioners not to exceed
941 1.5 mills of the total annual district revenues, and all
942 contracts for construction of improvements authorized under this
943 act at a contract price in excess of said amount, shall be made
944 or let only after an advertisement inviting bids upon such
945 purchases or contracts has been published in a newspaper of
946 general circulation in the North Broward Hospital District. The

board of commissioners shall have the authority to modify or negotiate to the extent provided in subsection (2).

(c) Bids upon such purchases or contracts shall be sealed and shall not be opened by the North Broward Hospital District until after the last bid to be considered has been received by the district.

(d) All purchases of supplies, equipment, and materials for use in the operation and maintenance of a hospital or hospitals made by the district may be made through participation in group purchasing plans by or with other governmental or nongovernmental agencies at the discretion of the board of commissioners. The district may purchase in accordance with prices established by such group purchasing plans where it can be demonstrated that savings to the district would be realized.

(2) Any plans and specifications provided to prospective bidders shall be solely for the purpose of identifying the purchase or construction desired, and the board of commissioners is hereby authorized and empowered to deviate from such plans, specifications, and instructions in the acceptance of any bid so long as the contract or purchase accepted is substantially similar in function and purpose to that identified. The board of commissioners is further authorized and empowered to agree with the successful bidder for changes and modifications to the successful bid, the total value of changes and modifications not to exceed 20 percent of the agreed price, without voiding the existing contract and without any further bidding procedure.

(3) No bidding procedure prescribed in this section shall apply to work performed by regular employees of the district.

(4) Whenever it reasonably appears to the board of commissioners that, by reason of an emergency or unusual conditions, compliance with the bidding procedures prescribed by this section would be detrimental to the interests of the North Broward Hospital District, the board of commissioners may by appropriate resolution identify such emergency or unusual condition and authorize the purchase or construction desired without compliance with the prescribed bidding procedures of this section.

Section 25. Bad debts.--The board of commissioners is authorized to declare accounts receivable uncollectible and to write such accounts off the active books and financial records of the district as bad debts. The board of commissioners is further authorized to destroy the account records of those accounts declared to be bad debts, but such records shall not be destroyed earlier than 4 years after the annual audit of the district reflecting such writeoff has been sent to the office of the Florida Chief Financial Officer, as required by law.

Section 26. Settlement of claims of district against others.--The board of commissioners shall be authorized and empowered to compromise and settle any accounts receivable or other claim on money due and owing to the district according to such terms and conditions as the board of commissioners in its discretion might determine. It is expressly provided that factors which may be considered by the board of commissioners in such compromise are the ability of the debtors to pay and the probabilities of collection in full. The board of commissioners is further authorized and empowered to sell, assign, or convey

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1003 to any person the right, title, and interest of the district in
1004 any account receivable or judgment owned by the district by full
1005 or partial payment of such account or judgment as the board of
1006 commissioners in its discretion might determine. The board of
1007 commissioners is further authorized and empowered to subordinate
1008 its interest in any mortgage or judgment lien to the interests
1009 of any third parties according to such terms and conditions as
1010 the board of commissioners in its discretion might determine.

1011 Section 27. Payments to other medical institutions.--The
1012 board of commissioners is authorized and empowered to obligate
1013 the district for the payment of hospital and nursing home
1014 expenses for patients transferred from hospitals of the district
1015 to such other institutions at the district's request, provided
1016 that said patients shall be first certified to be medically
1017 indigent by the North Broward Hospital District, based upon the
1018 definition and standards used by the state. The authority to
1019 obligate the district to such institutions may be delegated by
1020 the board of commissioners to such administrative officers of
1021 the district as the board might believe to be necessary and
1022 proper, and such obligations may be incurred by the district
1023 according to such circumstances, terms, and conditions as the
1024 board of commissioners might determine or specify.

1025 Section 28. Parking facilities.--The board of
1026 commissioners is authorized and empowered to establish,
1027 construct, and maintain such automobile parking facilities upon
1028 district property as the board of commissioners in its
1029 discretion might determine to be necessary and proper to a
1030 hospital facility. The board of commissioners is further

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authorized and empowered to charge such fee for the use of such facilities as it might determine.

Section 29. Medical research.--The board of commissioners is hereby authorized and empowered at any time in its discretion to establish, maintain, or participate in such programs and projects of and for medical research, education, and development affecting human physical or mental health and well being as it may deem desirable. In connection with such programs and projects, the board of commissioners is authorized and empowered to cooperate with public and private educational or research institutions, corporations, foundations, or organizations of any and all types as well as agencies, departments, divisions, branches, or bodies of government, or created by government, whether federal, state, county, municipal, or otherwise. In furtherance of such programs and projects, said board of commissioners is further authorized and empowered to expend moneys and utilize assets and property, real or personal, of the district and to receive donations, grants, or gifts of money or property, real or personal, from any person or persons, firm, organization, corporation, society, institution, foundation, or legal entity of whatever nature, whether private, governmental, or public.

Section 30. Fiscal year.--Notwithstanding the provisions of section 218.33, Florida Statutes, the fiscal year of the North Broward Hospital District shall commence July 1 and end June 30 of each calendar year.

Section 31. Use of Florida Industrial Development Financing Act.--The district is hereby declared to be a local

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1059 agency as defined in section 159.27, Florida Statutes, and shall
1060 have all additional powers set forth in part II of chapter 159,
1061 Florida Statutes, to be exercised in furtherance of the purposes
1062 of the district.

1063 Section 32. Transfer or lease of facilities to not-for-
1064 profit corporations authorized.--

1065 (1) The district shall have the authority to transfer, by
1066 lease, installment sale agreement, or otherwise, any or all of
1067 its hospitals and other facilities to one or more Florida not-
1068 for-profit corporations for the purpose of operating and
1069 managing such facilities and to enter into leases with one or
1070 more Florida not-for-profit corporations for the operating of
1071 such facilities. The term of any such lease, contract, or
1072 agreement and the conditions, covenants, and agreements to be
1073 contained therein shall be determined by the board.

1074 (2) Any lease, contract, or agreement made pursuant to
1075 subsection (1) shall:

1076 (a) Provide that the articles of incorporation of such
1077 not-for-profit corporations initially be subject to the approval
1078 of the board of commissioners of the district.

1079 (b) Require that the not-for-profit corporations become
1080 qualified under s. 501(c)(3) of the United States Internal
1081 Revenue Code.

1082 (c) Provide for the orderly transition of such facilities
1083 to not-for-profit corporations.

1084 (d) Provide for the return of such facility to the
1085 district upon the termination of such agreement or the
1086 dissolution of such not-for-profit corporations.

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Section 33. Community Redevelopment Act of 1969.--

(1) Notwithstanding the provisions of part III of chapter 163, Florida Statutes, the Community Redevelopment Act of 1969, the North Broward Hospital District shall not be deemed to be a public body or taxing authority as those terms are used in part III of chapter 163, Florida Statutes.

(2) This section shall not apply with respect to community redevelopment agencies established prior to January 1, 2002.

Section 34. Liberal construction of act.--The provisions of this act shall be liberally construed for accomplishing the work authorized and provided for or intended to be provided for in this act, and where strict construction would result in the defeat of the accomplishment of any part of the work authorized by this act and a liberal construction would permit or assist in the accomplishment thereof, the liberal construction shall be chosen.

Section 4. Severability.--Any provision of this act which for any reason may be held or declared invalid or unenforceable may be eliminated, and the remaining portion or portions thereof shall remain in full force and be valid and enforceable as if such invalid or unenforceable provision had not been incorporated therein.

Section 5. Chapters 27438 (1951), 61-1931, 61-1937, 63-1192, 65-1316, 65-1319, 67-1170, 67-1171, 69-895, 69-898, 69-914, 70-622, 71-567, 71-576, 71-578, 73-411, 73-412, 73-413, 74-449, 75-347, 75-348, 76-338, 77-508, 78-481, 80-464, 80-468, 81-354, 84-399, 86-369, 87-508, 90-485, 91-351, 97-372, and 2002-363, Laws of Florida, are repealed.

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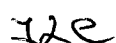
Section 6. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1483
SPONSOR(S): Attkisson
TIED BILLS:

Grove Community District, Okeechobee County

IDEN./SIM. BILLS: SB 2766

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|-----------------------------|--------|--|---|
| 1) Local Government Council | | Camechis  | Hamby  |
| 2) Finance & Tax Committee | | | |
| 3) | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

This bill creates the Grove Community District (district), which encompasses approximately 6,000 undeveloped acres within Okeechobee County, for the purpose of providing community development systems, facilities, services, projects, improvements, and infrastructure to the area. The bill provides the minimum requirements that must be included in the charter when creating an independent special district. The bill authorizes the district to provide for and fund: water management and control, water supply, sewer, and wastewater management, reclamation, and reuse; bridges or culverts; roadways and roads, parkways, hardscaping, landscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, road striping; parking facilities; buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, related signage; costs associated with cleanup of actual or perceived environmental contamination within the district; conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property; parks and facilities for indoor and outdoor recreational, cultural, and educational uses; fire prevention and control; emergency medical care; higher education facilities, school buildings and related structures; security; mosquitoes and other public health nuisance arthropods control; waste collection and disposal; impact fee credit agreements; health care facilities; buildings and structures for district offices, maintenance facilities, meeting facilities, community centers, or any other project authorized by this bill. The district may, using its general and special powers, provide any project within or without the boundaries of the district when the project is the subject of an agreement between the district and the Okeechobee County Board of County Commissioners or with any other applicable public or private entity and is not inconsistent with the effective local comprehensive plan.

The district may levy user charges and fees; non-ad valorem maintenance taxes as authorized by general law; and special assessments. The district may impose ad valorem taxes not to exceed 3 mills upon voter approval at referendum conducted after the entire board is elected by electors of the district.

The bill creates a five-member Board of Supervisors to govern the district. The Board is initially elected on a one-acre/one-vote basis, however, as population in the district increases, members are elected by qualified electors of the district. According to an estimated development schedule, a majority of the board will be elected by qualified electors after approximately 19 years.

The attached Economic Impact Statement does not project any fiscal impact in FY 05-06 and FY 06-07; however, the district is authorized to levy special assessments, fees, non ad-valorem assessments, and ad valorem taxes (upon approval at referendum) but the amount of revenues generated by these assessments is indeterminate. The district is authorized to perform numerous functions and undertake a wide range of projects within the district, therefore, expenditures are expected to be substantial but indeterminate.

This bill appears to provide exemptions from the provisions of general law. Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. [Please see p. 20 of this analysis.]

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This bill creates an independent special district that is authorized to perform a wide range of functions within its jurisdictional boundaries and extraterritorially, and that may adopt a wide range of administrative rules pursuant to ch. 120, F.S.

Provide for Lower Taxes: The district is authorized to raise revenues by levying ad valorem taxes up to 3 mills, if approved at referendum; non-ad valorem maintenance taxes; non-ad valorem assessments; benefit special assessments; maintenance special assessments; special assessments; and fees, or service charges.

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

Special Districts Generally

Independent special districts are limited forms of government created to perform specialized functions. Special districts have no home rule power; rather, they only have the powers expressly provided by, or which can be reasonably implied from, the authority legislatively provided in their charter.

Chapter 189, F.S., is the "Uniform Special District Accountability Act" (Act). The Act provides that it is the specific intent of the Legislature that independent special districts may only be created by legislative authorization as provided in the Act.

Section 189.404, F.S., prohibits special acts creating independent special districts that are exempt from general law requirements regarding:

- General requirements and procedures for elections (s. 189.405, F.S.);
- Bond referenda requirements (s. 189.408, F.S.);
- Bond issuance reporting requirements (s. 189.4085, F.S.);
- Public facilities reports (s. 189.415, F.S.); and
- Notice, meetings, and other required reports and audits (ss. 189.417 & 189.418, F.S.).

Section 189.404(2), F.S., requires submission of a statement to the Legislature documenting the purpose of the proposed district; the authority of the proposed district; and an explanation of why the district is the best alternative. In addition, that section requires submission of a resolution or official statement issued by the appropriate local governing body in which the proposed district is located affirming that the creation of the proposed district is consistent with approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

Section 189.404(5), F.S., requires the charter of any newly created special district to contain a reference to the status of the special district as dependent or independent. Section 189.404(2)(a), F.S., prohibits special laws which create independent districts that do not, at a minimum, conform to the minimum requirements in s. 189.404(3), F.S. The charters of independent districts must address and include certain provisions, including geographical boundaries, taxing authority, bond authority, and Board selection procedures.

In addition to these extensive requirements for local bills creating independent special districts, other criteria mandated by the Florida Constitution must be fulfilled including notice requirements applicable to all local bills.

Election Procedure for Independent Special Districts Generally

The bill specifies that "[t]he transition process described herein is intended to be in lieu of the process set forth in section 189.4051, Florida Statutes." Section 189.4051, F.S., provides a transition process for boards of special districts to convert from board members elected on a one-acre-one vote basis, to board members elected by qualified electors of the district. That section requires a referendum to be called by the board of a district that is elected on a one-acre/one vote basis on the question of whether certain members of a district governing board should be elected by qualified electors, provided that all of the following conditions are satisfied at least 60 days prior to the referendum:

1. The district has a total population of at least 500 qualified electors; and
2. A petition signed by 10 percent of the qualified electors is filed with the governing board and certified by the supervisor of elections.

If the qualified electors approve the election procedures described in s. 189.4051(2), F.S., the board must be increased to five members and elections must be held pursuant to that provision. After approval, the board must prepare maps of the district describing the "urban areas"¹ within the district. A process is provided in statute for landowners or qualified electors to contest the accuracy of the urban area maps. Upon adoption of the urban area maps by the board, the maps are used to determine the extent of urban area within the district and the number of governing board members to be elected by qualified electors and those elected on a one-acre/one-vote basis.

If the electors disapprove the election procedure, elections of board members continue as described by general law or enabling legislation of the district.

Community Development Districts

Chapter 190, F.S., the Uniform Community Development District Act, allows for the establishment of independent special districts with governmental authority to manage and finance infrastructure for planned developments. Community Development Districts (CDDs) must be contained within the boundaries of a single county. CDDs consisting of 1,000 acres or more must be created by rule adopted by the Florida Land and Water Adjudicatory Commission granting a petition for the establishment of the CDD, whereas CDDs with less than 1,000 acres must be created pursuant to county ordinance.

Initial financing is typically through the issuance of tax-free bonds, with the corresponding imposition of ad valorem taxes, special assessments, or service charges. Consequently, the burden of paying for the infrastructure is imposed on those buying land, housing, and other structures in the district -- not on the other taxpayers of the county or municipality in which the district is located. As of November 2003, there were 210 active CDDs in Florida.

Section 190.012, F.S., specifies the types of infrastructure CDDs are authorized to provide, including infrastructure relating to water management and control; water supply, sewer and waste water management, reclamation, and reuse; bridges or culverts; roads; street lights; parks and other outdoor recreational, cultural, and educational facilities; fire prevention and control; school buildings; security; mosquito control; and waste collection and disposal. CDDs are governed by an elected five-member board of supervisors, who possess the general managerial authority provided to other special districts in the state. This includes the authority to hire and fix the compensation of a general manager; the right

¹ Section 189.4051(1)(b), F.S., defines "urban area" as "a contiguous developed and inhabited urban area within a district with a minimum average resident population density of at least 1.5 persons per acre as defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas must be designated by the governing board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the district."

to contract; to borrow money; to adopt administrative rules pursuant to ch. 120, F.S.; and the power of eminent domain.²

Election Procedures for Community Development Districts Generally

Section 190.006(3), F.S., provides for the transition of Community Development District (CDD) boards that are elected by landowners to boards elected by qualified electors of the districts. If a CDD wishes to exercise ad valorem taxing power, the district board must call an election at which the members of the board of supervisors will be elected by qualified electors. Each member must be elected by the qualified electors of the district for a term of 4 years, except that, at the first such election, three members are elected for a period of 4 years and two members for a period of 2 years. All elected board members must be qualified electors of the district.

Regardless of whether a district has proposed to levy ad valorem taxes, commencing 10 years after the initial appointment of members, the position of each member whose term has expired must be filled by a qualified elector of the district, elected by the qualified electors of the district. However, if, in the 10th year after initial appointment for districts exceeding 5,000 acres in area, there are not at least 500 qualified electors, members of the board continue to be elected by landowners.

If a district has less than 50 qualified electors when the district is created, after the 10th year and, once a district reaches 250 or 500 qualified electors, respectively, then the positions of two board members whose terms are expiring must be filled by qualified electors of the district, elected by the qualified electors of the district for 4-year terms. The remaining board member whose term is expiring must be elected for a 4-year term by the landowners and is not required to be a qualified elector. Thereafter, as terms expire, board members must be qualified electors elected by qualified electors of the district for a term of 4 years.

Once a district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district must be held at the general election in November.

EFFECT OF PROPOSED CHANGES

Grove Community District Generally

This bill creates the Grove Community District (district), a "local government and corporate body politic, is limited to its single, narrow, and special legislative purpose herein expressed, with the power to provide, plan, implement, construct, maintain, and finance as a local government management entity its basic systems, facilities, services, improvements, infrastructure, and projects and possessing financing powers to fund its management purpose over the long term." The boundaries of the district encompass approximately 6,000 undeveloped contiguous acres in Okeechobee County. The general purpose of the district is to The limited, single, and specialized purpose of the Grove Community District is to "provide community development systems, facilities, services, projects, improvements, and infrastructure to the new community by exercising its various management powers, with related financing powers, both general and special, as set forth by and limited by this act."

The independent district charter created in this act involves "innovative general and special powers not otherwise available for this unique and highly specialized first ever new community in such a unique area." However, the district must operate and function subject to, and not inconsistent with, the Okeechobee County Comprehensive Plan and Land Development Regulations and any applicable development orders, zoning regulations, or other land development regulations.

² *Community Development Districts*, The Florida Senate, Committee on Comprehensive Planning, Interim Project Report 2004-121, Nov. 2003.

On January 12, 2006, the Board of County Commissioners of Okeechobee County adopted Resolution 2006-1, expressing no objection to the creation and establishment of the Grove Community District and finding it consistent with the Okeechobee County Comprehensive Plan.

Referendum Requirement

This bill takes effect upon becoming a law, without a referendum of the voters or landowners in the district; however, the provisions of the bill that authorize the levy of ad valorem assessments take effect only upon express approval by a majority vote of those qualified electors of the district, as required by Section 9 of Article VII of the State Constitution, voting in a referendum to be called by the Supervisor of Elections of Okeechobee County and held by the Board of Supervisors of the Grove Community District. The referendum must be held in accordance with the provisions of law relating to elections in force at the time the referendum is held.

Modification of District Boundaries and Charter

The territorial boundary of the district embraces and includes, without reservation or enclave, all of that certain real property described legally in the district charter. The charter of the district is this act and may be amended, terminated, or repealed only by special act of the Legislature amending or repealing this act.

The board may ask the Legislature through its local legislative delegation in and for Okeechobee County to amend this act to contract or expand the boundaries of the district. The district will remain in existence until:

1. The district is terminated and dissolved pursuant to amendment to this act by the Legislature;
- or
2. The district has become inactive pursuant to s. 189.4044, F.S.

The jurisdiction of this district, in the exercise of its general and special powers and in the carrying out of its single, narrow, and special purpose, is both within the external boundaries of the legal description of this district and extraterritorially, when limited to, and as authorized expressly elsewhere in, the charter of the district in this act or applicable general law.

District Governing Board

This bill creates the Board of Supervisors of the Grove Community District, which is the governing board and body of the district. Except as otherwise provided, each member holds office for a term of 4 years and until his or her successor is chosen and qualifies. There are five members of the board who must, in order to be eligible, be residents of the state and citizens of the United States. Three members constitute a quorum.

All members of the board, regardless of how elected, are public officers, known as supervisors, and, upon entering into office, must take and subscribe to the oath of office as prescribed by general law. All members of the board, regardless of how elected, and regardless of whether they are qualified electors themselves, are public officials and subject to ethics and conflict of interest laws of the state that apply to all public officers. They hold office for the terms for which they were elected and until their successors are chosen and qualified.

Any elected member of the board may be removed by the Governor for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by this act. Any vacancies which may occur in such office must be filled by the Governor, as soon as practicable, unless filled by the board.

All governing board members elected by qualified electors must be qualified electors elected at large. Candidates seeking election as qualified electors must conduct their campaigns in accordance with general law requirements.

a. Election of Board by Landowners

Within 45 days after the effective date of this act, a specially noticed meeting of the landowners of the district must be held for the purpose of electing the members to the first board. At the meeting, for the election of each person to be elected, each and every acre of land, or any fraction thereof, within the boundary of the district represents one vote and each owner of that acre or fraction thereof is entitled to one vote for every such acre or fraction thereof. Persons who qualify to serve as board members must be nominated at the noticed meeting and prior to the initial election at the noticed meeting. A landowner may vote in person or by proxy in writing. A landowner who sells land to a bona fide purchaser may by written lawful instrument retain the voting rights for that acreage.

At the landowners' meeting for the election of the members of the board on a one-acre, one-vote basis, the two candidates receiving the highest number of votes must be elected for terms expiring November 30, 2008, and the three candidates receiving the next highest number of votes must be elected for terms expiring November 30, 2010. The members of the first board elected by the landowners must serve their respective 4-year or 2-year terms; however, the next election by the landowners must be held on the first Tuesday in November 2008 to elect members to fill those vacancies to 4-year terms. Thereafter, there must be an election of supervisors for the district every 2 years in November on a date established by the board and subject to public notice.

In case of a vacancy in the office of any member of the board, the remaining members of the board must, by majority vote, elect a person to serve as a member of the board for the unexpired portion of the term.

b. Election of the Board by Qualified Electors

Elections of the members of the board must be conducted on a one-acre, one-vote basis until and unless a referendum is called by the board on the question of whether certain members of the board should be elected by qualified electors, providing each of the following conditions has been satisfied at least 60 days prior to the general or special election at which the referendum is to be held:

1. The district has at least 500 qualified electors based on the most recent state population estimate.
2. A petition signed by 10 percent of the qualified electors of the district has been filed with the board. The petition must be submitted to the Supervisor of Elections of Okeechobee County who must, within 30 days after receipt of the petition, certify to the board the percentage of signatures of qualified electors contained in the petition.

Upon verification by the supervisor of elections that 10 percent of the qualified electors of the district have petitioned the board, a referendum election must be called by the board at the next regularly scheduled election of governing board members occurring at least 60 days after verification.

If the qualified electors approve the election procedure described below, the governing board of the district will remain five members and elections must be held pursuant to the criteria described below, beginning with the next regularly scheduled election of board members or at a special election called within 6 months after the referendum and final unappealed approval of district urban area maps as provided in this section, whichever is earlier. If the qualified electors of the district reject the election procedure, elections of the members of the board continue as described in this act on a one-acre, one-vote basis. No further referendum on the question may be held for a minimum period of 2 years after the referendum.

Within 30 days after approval of the election process by qualified electors of the district, the board must direct district staff to prepare and to present maps of the district describing the extent and location of all urban areas within the district. The determination must be based upon the criteria contained in the definition of urban area in this act. "Urban area" is defined as "a developed and inhabited urban area within the district within a minimum acreage resident population density of least 1.5 persons per acre as

defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas must be designated by the board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the jurisdiction of the district."

Within 60 days after approval of the election process by qualified electors of the district, the maps describing urban areas within the district must be presented to the board.

Any district landowner or elector may contest the accuracy of the urban area maps prepared by district staff within 30 days after submission to the board. Upon notice of objection to the maps, the governing board must request the county engineer to prepare and present maps of the district describing the extent and location of all urban areas within the district. The determination must be based exclusively upon the criteria contained in the definition "urban area". Within 30 days after the governing board submits its request, the county engineer must present the maps to the governing board.

Upon presentation of the maps by the county engineer, the governing board must compare the maps submitted by both the district staff and the county engineer and make a determination as to which set of maps to adopt. Within 60 days after presentation of all such maps, the governing board may amend and must adopt the official maps at a regularly scheduled board meeting. Any district landowner or qualified elector may contest the accuracy of the urban area maps adopted by the board after adoption in accordance with the provision for judicial review as provided in the Administrative Procedure Act. Accuracy must be determined pursuant to the definition of "urban area".

Upon adoption by the board or certification by the court, the district urban area maps must serve as the official maps for determination of the extent of urban area within the district and the number of members of the board to be elected by qualified electors and by one-acre, one-vote at the next regularly scheduled election of governing board members.

Upon a determination of the percentage of urban area within the district as compared with total area within the district, the governing board must determine the number of electors in accordance with the percentages pursuant to this paragraph. The maps must be updated and readopted every 5 years or sooner at the discretion of the board.

The five members of the governing board of the district must be elected in accordance with the following determinations of urban area:

- If urban areas constitute 25 percent or less of the district, one governing board member must be elected by the qualified electors and four governing board members elected in accordance with the one-acre, one-vote principle.
- If urban areas constitute more than 25 percent but less than 50 percent of the district, two governing board members must be elected by the qualified electors and three governing board members elected in accordance with the one-acre, one-vote principle.
- If urban areas constitute at least 50 percent but less than 70 percent of the district, three governing board members must be elected by the qualified electors and two governing board members elected in accordance with the one-acre, one-vote principle.
- If urban areas constitute at least 70 percent but less than 90 percent of the district, four governing board members must be elected by the qualified electors and one governing board member must be elected in accordance with the one-acre, one-vote principle.
- If urban areas constitute at least 90 percent or more of the district, all governing board members must be elected by the qualified electors.

All governing board members elected by qualified electors have a term of 4 years each except for governing board members elected at the first election and the first landowners' meeting following the referendum described above. Governing board members elected at the first election and the first landowners' meeting following the referendum serve as follows:

- If one governing board member is elected by the qualified electors and four are elected on a one-acre, one-vote basis, the governing board members elected by the qualified electors are elected for a term of 4 years each. Governing board members elected on a one-acre, one-vote basis are elected for terms as otherwise prescribed in the provisions governing elections by landowners.
- If two governing board members are elected by the qualified electors and three are elected on a one-acre, one-vote basis, the governing board members elected by the qualified electors are elected for a term period of 4 years each. Governing board members elected on a one-acre, one-vote basis must be elected for terms of 1, 2, and 3 years, respectively, as otherwise prescribed in the provisions governing elections by landowners.
- If three governing board members are elected by the qualified electors and two are elected on a one-acre, one-vote basis, two of the governing board members elected by the qualified electors are elected for a term of 4 years and the other governing board member elected by the electors must be elected for a term of 2 years. Governing board members elected on a one-acre, one-vote basis must be elected for periods of 1 year and 2 years, respectively, as otherwise prescribed in the provisions governing elections by landowners.
- If four governing board members are elected by the qualified electors and one is elected on a one-acre, one-vote basis, two of the governing board members elected by the electors are elected for terms of 2 years each and the other two for term of 4 years each. The governing board member elected on a one-acre, one-vote basis are elected for a term of 1 year as otherwise prescribed in the provisions governing elections by landowners.
- If five governing board members are elected by the qualified electors, three must be elected for terms of 4 years each and two for terms of 2 years each.

If any vacancy occurs in a seat occupied by a governing board member elected by the qualified electors, the remaining members of the governing board must, within 45 days after the vacancy occurs, appoint a person who would be eligible to hold the office for the unexpired term. Each election by qualified electors of members of the board must be conducted in the manner and at a time prescribed by law for holding general elections or prescribed by the Supervisor of Elections in and for the Okeechobee County political subdivision.

An annual landowners' meeting must be held and at least one governing board member must be elected on a one-acre, one-vote basis for so long as 10 percent or more of the district is not contained in an urban area. In the event all district governing board members are elected by qualified electors, there will be no further landowners' meetings.

At any landowners' meeting called for the purpose of addressing elections issues, 50 percent of the district acreage is not be required to constitute a quorum and each governing board member is elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting. All landowners' meetings of districts operating pursuant to this section must be set by the board within the month preceding the month of the election of the governing board members by the electors.

General Powers of the District

The following broad general powers of the district must be construed liberally in order to carry out effectively the single specialized purpose of this act and to secure for the district its ability to be innovative:

- To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire by purchase, gift, devise, or otherwise, and to dispose of, real and personal property or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
- To apply for coverage of its employees under the state retirement system in the same manner as if such employees were state employees, subject to necessary action by the district to pay employer contributions into the state retirement fund.

- To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts are subject to public bidding or competitive negotiation requirements.
- To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.
- To adopt rules and orders pursuant to the provisions of ch.120, F.S., prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the district. The board may also adopt administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business.
- To maintain an office at such place or places as the board designates in Okeechobee County and within the district when facilities are available.
- To hold, control, and acquire by donation, purchase, or condemnation, and to dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act other than public easements conveyed to or accepted by Okeechobee County and to make use of such easements, dedications, or reservations for the purpose mandated by this act.
- To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out the purposes mandated by this act.
- To borrow money and issue bonds, certificates, warrants, notes, or other evidences of indebtedness as hereinafter provided; to levy such tax and assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.
- To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.
- To exercise within the district, or beyond the district with prior approval by majority vote of a resolution of the governing body of the county if the taking will occur in an unincorporated area, the right and power of eminent domain, pursuant to the provisions of chs. 73 and 74, F.S., over any property within the state, except municipal, county, state, and federal property, for the uses and purpose of the district relating solely to water, sewer, district roads, and water management, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.
- To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.
- To assess and impose upon lands in the district ad valorem taxes as provided and limited by this act.
- If and when authorized by general law, to determine, order, levy, impose, collect, and enforce maintenance taxes.
- To determine, order, levy, impose, collect, and enforce assessments pursuant to this act, which sets forth a detailed uniform procedure to implement ch. 170, F.S., and as an alternative to determine, order, levy, impose, collect, and enforce assessments under and pursuant to ch.170, F.S., pursuant to authority granted in s. 197.3631, F.S., or pursuant to other provisions of general law, now or hereinafter enacted, which provide or authorize a supplemental means to impose, levy, and collect special assessments. Such special assessments, in the discretion of the district, as provided in s. 197.3631, F.S., may be collected and enforced pursuant to the provisions of ss. 197.3632 and 197.3635, F.S., and chs. 170 and 173, F.S., or as provided by this act.

- To exercise such special powers and other express powers as may be authorized and granted by this act in the charter of the district, including powers as provided in any interlocal agreement entered into pursuant to ch. 163, F.S., or which are required or permitted to be undertaken by the district pursuant to any development order or development of regional impact, including any interlocal service agreement with Okeechobee County for fair-share capital construction funding for any capital facilities or systems required of the developer pursuant to any applicable development order or agreement.
- To exercise all of the powers necessary, convenient, incidental, or proper in connection with any other powers or duties or the single purpose of the district authorized by this act.

Special Powers of the District

The district is granted the following special powers to implement its special purpose and to provide pursuant to that purpose basic systems, facilities, and services in the district subject to, and not inconsistent with, the regulatory jurisdiction and permitting authority of all other applicable governmental bodies, agencies, and any special districts having authority with respect to any area included therein, and to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, finance, fund, and maintain improvements, systems, facilities, services, works, projects, and infrastructure any or all of the following special powers granted by this act in order to implement the special requirements of this new community within the single special purpose of the district:

- To provide for water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges. In the event that the board assumes the responsibility for providing water management and control for the district which is to be financed by benefit special assessments, the board must adopt plans and assessments pursuant to law or may adopt water management and control plans, assess for benefits, and apportion and levy special assessments in accordance with specified procedures set forth in the bill.
- To provide for water supply, sewer, and wastewater management, reclamation, and reuse or any combination thereof and any irrigation systems, facilities, and services; to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or way; and to dispose of any effluent, residue, or other byproducts of such system or sewer system.
- To provide for bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.
- To provide for district roads equal to or exceeding the specifications of the county in which such district roads are located, and streetlights, including conditions of development approval which sometimes may be different specifications than the normal specifications of the county.
- Include as a component thereof roads, parkways, bridges, landscaping, irrigation, bicycle and jogging paths, street lighting, traffic signals, road striping, and all other customary elements of a modern road system in general or as tied to the conditions of development approval for the specific district.
- To plan, implement, construct or reconstruct, enlarge or extend, finance, fund, equip, operate, and maintain parking facilities freestanding or as may be related to any innovative strategic intermodal system of transportation pursuant to applicable federal, state, and local laws and ordinances.
- To provide for buses, trolleys, transit shelters, ride-sharing facilities and services, parking improvements, and related signage.
- To cover investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district who caused or contributed to the contamination.
- To provide for conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property.

- Using its general and special powers as set forth in this act, to provide for any other project within or without the boundaries of a district when the project is the subject of an agreement between the district and the Board of County Commissioners of Okeechobee County or with any applicable other public or private entity, including a homeowner association, and is not inconsistent with the Okeechobee County Comprehensive Plan and the Growth Management act which implement the single special purpose of the district.
- To provide for parks and facilities for indoor and outdoor recreational, cultural, and educational uses.
- To provide for fire prevention and control, including fire stations and buildings, water mains and plugs, fire trucks, and other vehicles and equipment, and for emergency medical services, including stations and buildings, vehicles, and equipment.
- To provide for school buildings and related structures, which may be leased, sold, or donated to the school district, for use in the educational system when authorized by the district school board. The district is granted the special power to contract with the Okeechobee County School Board and, as applicable, the Board of County Commissioners of Okeechobee County, and with the applicable landowner developer of the lands within the jurisdiction of the district, to assess the school district educational facilities plan, and to implement a management and financing plan for timely construction, maintenance, and acquisition, at the option of the district, of school facilities, including facilities identified in the facilities work programs or those proposed by charter schools. The district is granted the special power to determine, order, levy, impose, collect, or arrange for the collection and enforcement of assessments, as defined in and pursuant to this act, for such school facilities. The district is eligible for the financial enhancements available to educational facility benefit districts to provide for financing the construction and maintenance of educational facilities pursuant to s. 1013.356, F.S., and, if and when authorized by general law, to acquire such educational facilities.
- To provide for security, including, but not limited to, guardhouses, fences and gates, electronic intrusion detection systems, and patrol cars, when authorized by proper governmental agencies, except that the district may not exercise any powers of a law enforcement agency but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the district boundaries. Notwithstanding any provision of general law, the district may operate guardhouses for the limited purpose of providing security for the residents of the district and which serve a predominate public, as opposed to private, purpose. Such guardhouses must be operated by the district or other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in ch. 120, F.S.
- To provide for control and elimination of mosquitoes and other arthropods of public health importance.
- To provide for waste collection and disposal.
- To enter into impact fee credit agreements with Okeechobee County and the Okeechobee County School Board. Under such agreements, where the district constructs or makes contributions for public systems, facilities, services, projects, improvements, works, and infrastructures for which impact fee credits would be available to the landowner developer under the Okeechobee County and Okeechobee County School Board applicable impact fee ordinance, the agreement authorized by this act must provide that such impact fee credit must inure to the landowners within the district in portion to assessments or other burdens levied and imposed upon the landowners with respect to assessable improvements giving rise to such impact fee credits, and the district must, from time to time, execute such instruments, such as assignments of impact fee credits, as may be necessary, appropriate, or desirable to accomplish or to confirm the foregoing.
- To establish and create, at noticed meetings, such government departments of the board of the district, as well as committees, task forces, boards, commissions, or other agencies under the supervision and control of the district, as from time to time the members of the board may deem necessary or desirable in the performance of the acts or other things necessary to exercise its general or special powers to implement an innovative project to carry out the special purpose of the district as provided in this act and to delegate to such departments, boards, task forces, committees, or other agencies such administrative duties and other powers as the board may

deem necessary or desirable, but only if there is a set of expressed limitations for accountability, notice, and periodic written reporting to the board, which must retain its powers.

- So long as not inconsistent with the applicable local government comprehensive plan and development entitlements, to coordinate with the landowner developer on the phasing of the delivery of infrastructure and to create phase entities or units for its charter purpose. Toward this end, and so long as it implements the purpose of the district under this act, the board may designate, therefore, units of development and adopt systems of progressive phased development by units with related management planning, implementation, construction, maintenance, and financing within its phased unit. If the board proceeds to designate such phased units of development, it must adopt at a noticed meeting pursuant to ch. 120, F.S., a rule setting forth detailed procedures and authorizations for such phase unit processes. A committee, department, or agency of the board must be given express duty of oversight with monthly written reports to the board. No such phased units can begin or operate until or unless the required noticed rule has been promulgated. With regard to any phased unit, there must be no bonded indebtedness and no levy of any lienable or nonlienable revenue, whether to amortize bonds or not, within the boundary of a phased unit other than by the board and pursuant to the powers, procedures, and provisions of this act and other applicable laws.
- To plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, maintain, finance, and fund buildings and structures for district offices, maintenance facilities, meeting facilities, town centers, or any other project authorized or granted by this act upon a showing at a noticed meeting of its efficacy to the specialized single purpose of this district for the new community.
- To plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, maintain, finance, and fund edifices and facilities for the provision of health care when authorized by applicable public or private agencies providing health care and upon a showing of efficacy to carry out the purpose of the district.
- To coordinate, work with, and, as the board deems appropriate, enter into interlocal agreements subject to the provisions of this charter with any public or private institution of higher education, including the Indian River Community College and any public or private university. The purpose of such coordination and agreements is to help sustain high-quality infrastructure in, around, and for the universities as may be appropriate under the law on the basis that the provision of such systems, facilities, and services, including classrooms or other buildings for such institutions, constitutes enhancement of the intrinsic value and marketability of property within the new community and also provides for increased enjoyment and enhanced use of the property. These systems, facilities, and services, including buildings, must be first liens on the property within the community and serve a lawful public purpose upon a showing by the board in a nonarbitrary and informed manner of special and peculiar benefits that flow to the property within the community as a logical connection from the systems, facilities, and services, resulting in added use, enhanced enjoyment, decreased insurance premiums on, or enhanced value in the marketability of the property.
- To adopt and enforce appropriate rules following the procedures of ch. 120, F.S., in connection with the provisions of one or more its systems, facilities, services, projects, improvements, works, and infrastructure.

The enumeration of special powers is not exclusive or restrictive but must be deemed to incorporate all powers, express or implied, necessary or incident to carrying out such enumerated special powers, including also the general powers provided by this special act charter to the district to implement its single purpose.

District Borrowing and Issuance of Bonds

The district is authorized to obtain loans in any amount and on such terms as the board approves at an interest rate not to exceed the maximum rate allowed by general law. The district is also authorized to issue bond anticipation notes, interim certificates, certificates of indebtedness, assessment bonds, revenue bonds, and refunding bonds. Any general obligation bonds, special assessment bonds, or revenue bonds may be authorized by resolution or resolutions of the board, which must be adopted by

a majority of all the members thereof then in office. Such resolution or resolutions may be adopted at the same meeting at which they are introduced and need not be published or posted.

The district is authorized to issue general obligation bonds to finance or refinance capital projects or to refund outstanding bonds in an aggregate principal amount of bonds outstanding at any one time not in excess of 35 percent of the assessed value of the taxable property within the district as shown on the pertinent tax records at the time of the authorization of the general obligation bonds for which the full faith and credit of the district is pledged. Except for refunding bonds, general obligation bonds may not be issued unless the bonds are issued to finance or refinance a capital project and the issuance has been approved at an election held in accordance with the requirements for such election as prescribed by the State Constitution.

The district may pledge its full faith and credit for the payment of the principal and interest on such general obligation bonds and for any reserve funds provided therefor and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all taxable property in the district, to the extent necessary for the payment thereof, without limitations as to rate or amount.

The power of the district to issue bonds under the provisions of this act may be determined, and any of the bonds of the district maturing over a period of more than 5 years must be validated and confirmed, by court decree, under the provisions of ch. 75, F.S.

To the extent allowed by general law, all bonds, interest paid and all fees, charges, and other revenues derived by the district from the projects are exempt from all taxes by the state or by any political subdivision, agency, or instrumentality thereof; however, any interest, income, or profits on debt obligations issued are not exempt from the tax imposed by ch. 220, F.S. Further, the district is not exempt from the provisions of ch. 212, F.S.

The state pledges to the holders of any bonds issued that it will not limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy and collect the taxes, assessments, rentals, rates, fees, and other charges provided for herein or to fulfill the terms of any agreement made with the holders of such bonds or other obligations and that it will not in any way impair the rights or remedies of such holders.

A default on the bonds or obligations of a district does not constitute a debt or obligation of the state or any local general-purpose government or the state.

Taxes, Special Assessments, Fees, and Charges

Ad valorem taxes. A board elected by and consisting of qualified electors is authorized to levy and assess an ad valorem tax on all the taxable property in the district to construct, operate, and maintain assessable improvements; to pay the principal of, and interest on, any general obligation bonds of the district; and to provide for any sinking or other funds established in connection with any such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, may not exceed 3 mills. The ad valorem tax is in addition to county and all other ad valorem taxes provided for by law, and is assessed, levied, and collected in the same manner and at the same time as county taxes. The levy of ad valorem taxes must be approved by referendum when required by the State Constitution.

Benefit Special Assessments. The board must annually determine, order, and levy the annual installment of the total benefit special assessments for bonds issued for and expenses related to financing assessable improvements. Each annual installment of benefit special assessments is a lien on the property against which assessed until paid and is enforceable in a like manner as county taxes. The amount of the assessment for the exercise of the district's powers must be determined by the board based upon a report by the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land.

Non-Ad Valorem Maintenance Tax. In order to maintain and preserve the physical facilities and services constituting the works, improvements, or infrastructure provided by the district, and to repair and restore any one or more of them, when needed, and for the purpose of defraying the current expenses of the district, including any sum which may be required to pay state and county ad valorem taxes on any lands which may have been purchased and which are held by the district, the board may, upon the completion of said systems, facilities, services, works, improvements, or infrastructure, in whole or in part, as may be certified to the board by the engineer of the board, levy annually a non-ad valorem and nonmillage tax upon each tract or parcel of land within the district, to be known as a "maintenance tax." This non-ad valorem maintenance tax must be apportioned upon the basis of the net assessments of benefits assessed as accruing from the original construction.

Maintenance Special Assessments. To maintain and preserve the facilities and projects of the district, the board may levy a maintenance special assessment. These maintenance special assessments are a lien on the property against which assessed until paid and are enforceable in like manner as county taxes. The amount of the maintenance special assessment for the exercise of the district's powers must be determined by the board based upon a report by the district's engineer and assessed by the board upon such lands, which may be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

Special Assessments. As an alternative method to the levy and imposition of special assessments pursuant to ch. 170, F.S., pursuant to the authority of s. 197.3631, F.S., or pursuant to other provisions of general law that provide a supplemental means or authority to impose, levy, and collect special assessments as otherwise authorized under this act, the board may levy and impose special assessments to finance the exercise of any its powers using the specified uniform procedures.

Fees, Charges, and Rentals. The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges for the systems, facilities, and services furnished by the district within the limits of the district, including, but not limited to, recreational facilities, water management and control facilities, and water and sewer systems; to recover the costs of making connection with any district service, facility, or system; and to provide for reasonable penalties against any user or property for any such rates, fees, rentals, or other charges that are delinquent.

Rates, fees, rentals, or other charges for any of the facilities or services of the district may not be fixed until after a public hearing at which all the users of the proposed facility or service or owners, tenants, or occupants served or to be served thereby and all other interested persons have an opportunity to be heard concerning the proposed rates, fees, rentals, or other charges. Rates, fees, rentals, and other charges adopted under the administrative rulemaking authority of the district do not apply to district leases.

Rates, fees, rentals, and charges must be just, equitable, and uniform for users of the same class and, when appropriate, may be based or computed either upon the amount of service furnished, upon the number of average number of persons residing or working in or otherwise occupying the premises served, upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

If any rates, fees, rentals, charges, or delinquent penalties are not paid as and when due and are in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the district in a civil action.

If any fees, rentals, or other charges for water and sewer services, or either of them, are not paid when due, the board may, under such reasonable rules and regulations as the board may adopt, discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance of or restoration of such water and sewer services, or both, are fully paid; for such purposes, the board may enter on any lands, waters, or

premises of any person, firm, corporation, or body, public or private, within the district limits. Delinquent fees, rentals, or other charges, together with interest, penalties, and charges for the shutting off and discontinuance of or restoration of such services and facilities, reasonable attorney's fees, and other expenses, may be recovered by the district, which may also enforce payment of such delinquent fees, rentals, or other charges by any other lawful method of enforcement.

Enforcement of Taxes and Assessments

The collection and enforcement of all taxes levied by the district is at the same time and in like manner as county taxes, and the provisions of the Florida Statutes relating to the sale of lands for unpaid and delinquent county taxes; the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes; the redemption thereof; the issuance to individuals of tax deeds based thereon; and all other procedures in connection therewith are applicable to the district. All taxes are subject to the same discounts as county taxes. All taxes provided for in this act become delinquent and bear penalties on the amount of such taxes in the same manner as county taxes.

Any and all assessments, including special assessments, benefit special assessments, and maintenance special assessments; special assessments; and maintenance taxes if authorized by general law, constitute a lien on the property against which assessed from the date of levy and imposition thereof until paid, coequal with the lien of state, county, municipal, and school board taxes.

Any lien in favor of the district arising under this act may be foreclosed by the district by foreclosure proceedings in the name of the district in a court of competent jurisdiction as provided by general law in like manner as is provided in ch. 173, F.S. The provisions of that chapter are applicable to such proceedings. Any act required or authorized to be done by or on behalf of a municipality in foreclosure proceedings under ch. 173, F.S., may be performed by such officer or agent of the district as the board may designate. Such foreclosure proceedings may be brought at any time after the expiration of 1 year from the date any tax, or installment thereof, becomes delinquent; however, no lien may be foreclosed against any political subdivision or agency of the state. Other legal remedies remain available.

Competitive Bidding and Public Notice Regarding District Purchases

The board may not execute any contract for goods, supplies, or materials to be purchased when the amount to be paid by the district exceeds \$150,000, the amount provided in s. 287.017, F.S., for category four unless notice of bids are advertised once in a newspaper of general circulation in Okeechobee County. If the board seeks to construct or improve a public building or structure or other public works, it must comply with the bidding procedures of s. 255.20, F.S. and other applicable general law. In each case, the bid of the lowest responsive and responsible bidder must be accepted unless all bids are rejected because the bids are too high or because the board determines it is in the best interests of the district to reject all bids. The board may require the bidders to furnish bond with a responsible surety to be approved by the board. The board may undertake and perform the construction, operation, and maintenance of any project or facility authorized by this act by the employment of labor, material, and machinery.

The provisions of the Consultants' Competitive Negotiation Act in s. 287.055, F.S., apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services let by the board.

Contracts for maintenance services for any district facility or project must be subject to competitive bidding requirements when the amount thereof to be paid by the district exceeds \$150,000, the amount provided in s. 287.017, F.S., for category four. The district must adopt rules, policies, or procedures establishing competitive bidding procedures for maintenance services. Contracts for other services are not subject to competitive bidding unless the district adopts a rule, policy, or procedure applying competitive bidding procedures to said contracts.

Notice to Purchasers of Property Within the District

Subsequent to the creation of this district, each contract for the initial sale of a parcel of real property and each contract for the initial sale of a residential unit within the district must include, immediately

prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract: "THE GROVE COMMUNITY DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC SYSTEMS, FACILITIES, AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

Within 30 days after the election of the first board members, the district must cause to be recorded in the property records in the county in which it is located a "Notice of Creation and Establishment of the Grove Community District." The notice must, at a minimum, include the legal description of the property of the landowners who have consented to establishment of this district and a copy of the disclosure statement specified in subsection (30).

Public Access

Any system, facility, service, works, improvement, project, or other infrastructure owned by the district or funded by federal tax-exempt bonding issued by the district is public; the district by rule may regulate, and may impose reasonable charges or fees for, the use thereof but not to the extent that such regulation or imposition of such charges or fees constitutes denial of reasonable access.

C. SECTION DIRECTORY:

- Section 1. Provides short title of the Act.
- Section 2. Provides legislative intent and definitions.
- Section 3. Provides minimum charter requirements.
- Section 4. Sets forth district boundaries; grants powers; grants bonding authority; grants taxing authority; grants special assessment authority; grants authority to levy fees, rates, charges, and rentals; requires competitive procurement; requires public access;
- Section 5. Provides for severability.
- Section 6. Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? February 2, 2006

WHERE? The Okeechobee News, Okeechobee County, Florida

B. REFERENDUM(S) REQUIRED? Yes ☒ No ☐

IF YES, WHEN? This act takes effect upon becoming a law, except that the provisions of the bill that authorize the levy of ad valorem assessments only take effect upon express approval by a majority vote of those qualified electors of the district, as required by Section 9 of Article VII of the State Constitution, voting in a referendum to be called by the Supervisor of Elections of Okeechobee County and held by the Board of Supervisors of the Grove Community District. The election must be held in accordance with the provisions of law relating to elections in force at the time the referendum is held.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Separation of Powers

Sections 2 and 3 of this bill contain approximately 18 pages of legislative findings of fact, ascertainties, determinations, intent statements, and policy statements. On lines 966-968, the bill provides that "[s]ections 2 and 3 of this act are true and correct and are incorporated herein and made a part of this section as dispositive provisions of law."

Article II, section 3 of the State Constitutional provides that "No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein." The Legislature has the authority to enact laws that are presumed to be constitutional. The judicial branch makes the dispositive determination that the presumption has or has not been overcome. An attempt by the Legislature to make a "dispositive" determination may be considered an unconstitutional exercise of judicial powers by the Legislature.

One-Acre, One-Vote Election Mechanism

It should be noted that the broad grants of power to the district *may* impact the permissibility of conducting elections on a "one-vote-per-acre" basis. In *State v. Frontier Acres Community Development District Pasco County, Florida*, 472 So.2d 455 (Fla.1985), the Florida Supreme Court upheld one-vote-per-acre voting for community development districts created under ch. 190, F.S., based on the decisions of the United States Supreme Court,¹³ the narrow purpose of such districts, and the disproportionate effect district operations have on landowners:

The powers exercised by these districts must comply with all applicable policies and regulations of statutes and ordinances enacted by popularly elected state and local governments. Moreover, the limited grant of these powers does not constitute sufficient general governmental power so as to invoke the demands of Reynolds. Rather, these districts' powers implement the single, narrow legislative purpose of ensuring that future growth in this State will be complemented by an adequate community infrastructure provided in a manner compatible with all state and local regulations.

Following this case, the Fourth District Court of Appeal reached a similar conclusion with respect to water control districts which are governed by ch. 298, F.S. *Stelzel v. South Indian River Water Control Dist.*, 486 So.2d 65 (Fla. 4th DCA 1986). In reaching its decision, the court evaluated the functions exercised by the water control district and found that the evidence established that the district does not exercise general governmental functions:

While the record here contains evidence which tends to support appellants' claims that the District exercises municipal functions, it also demonstrates with equal clarity that each of the functions performed by the District directly relate either to its water control function or to its limited road maintenance authority.

These decisions, and the decisions of the United States Supreme Court, suggest a nexus between the nature and number of powers granted to a special district and whether voting may be conducted on a one-vote-per-acre basis. Thus, the more and varied powers a special district has, it seems more likely that one-vote-per-acre voting would be unconstitutional, particularly if the district meets any of the following criteria upon which the courts have based their decisions:

- The district does not have to comply with all applicable policies and regulations of statutes and ordinances enacted by popularly elected state and local governments;
- The district has a grant of power that is not limited and which constitutes "sufficient general governmental power;"
- The district does not have a single, narrow legislative purpose; or
- The functions performed by the district do not directly relate to its single, narrow purpose.

B. **RULE-MAKING AUTHORITY:** The bill authorizes the district to adopt rules under ch. 120, F.S., the Florida Administrative Procedure Act to provide for:

- The powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the district.
- Any of the projects of the district and define the area to be included therein.
- The operation of guardhouses for the limited purpose of providing security for the residents of the district and which serve a predominate public, as opposed to private, purpose. Such guardhouses must be operated by the district or other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board.
- The designation of phased units of development. The rule must set forth detailed procedures and authorizations for such phase unit processes. A committee, department, or agency of the board must be given express duty of oversight with monthly written reports to the board. No such phased units can begin or operate until or unless the required noticed rule has been promulgated.
- One or more its systems, facilities, services, projects, improvements, works, and infrastructure.
- Notice, levy, imposition, equalization, and collection of assessments.
- Competitive bidding procedures for maintenance services. Contracts for other services may not be subject to competitive bidding unless the district adopts a rule, policy, or procedure applying competitive bidding procedures to said contracts.
- Rates, fees, rentals, and other charges.
- Discontinuation of both water and sewer services until delinquent fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance of or restoration of such water and sewer services, or both, are fully paid.

C. **DRAFTING ISSUES OR OTHER COMMENTS:**

Possible Exemptions from General Law

The bill includes the following provisions, all of which appear to be exemptions from general law:

- Notwithstanding any provision of general law, the district may operate guardhouses for the limited purpose of providing security for the residents of the district and which serve a predominate public, as opposed to private, purpose. Such guardhouses must be operated by the district or other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in ch. 120, F.S.
- Notwithstanding the provisions of any other law to the contrary, all bonds issued under the provisions of this act constitutes legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and is a security which may be deposited by banks or trust companies as security for deposits of state, county, municipal, or other public funds or by insurance companies as required or voluntary statutory deposits.
- Notwithstanding any provision of this act or of ch. 170 or s. 170.09, F.S., which provide that assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority, such provision is not applicable to any district assessments, whether imposed, levied, and collected pursuant to the provisions of this act or other provisions of Florida law, including, but not limited to, ch.170, F.S.

Broad Powers of the District

The "specialized functions and related prescribed powers," which are a defining characteristic for a special district, are extremely broad for this particular district, including the power to provide for and fund: water management and control, water supply, sewer, and wastewater management, reclamation, and reuse; privatization contracting; bridges or culverts; roadways and roads, parkways, hardscaping,

landscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, road striping; parking facilities; buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, related signage; costs associated with cleanup of actual or perceived environmental contamination within the district; conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property; parks and facilities for indoor and outdoor recreational, cultural, and educational uses; fire prevention and control; school buildings and related structures; security; mosquitoes and other public health nuisance arthropods control; waste, waste collection, and disposal; impact fee credit agreements; and provide buildings and structures for district offices, maintenance facilities, meeting facilities, town centers, or any other project authorized by this bill.

However, such broad powers, have been upheld by the courts as demonstrated by the leading case on this issue, *State v. Reedy Creek Imp. Dist.*, 216 So.2d 202 (Fla. 1968):

So long as specific constitutional provisions are not offended, the Legislature in the exercise of its plenary authority may create a special improvement district encompassing more than one county and possessing multi-purpose powers essential to the realization of a valid public purpose. In the present case, the numerous and diverse powers granted to the District by the enabling act appear to be logically related and essential to the realization of the valid public purposes by the District. In reaching this conclusion, we reject the State's argument that the powers granted the District are commensurate in scope with those characteristic of a local municipal government rendering the enabling act a mere subterfuge to avoid the creation of a municipality.

Supremacy Clause

This bill includes the following supremacy clause:

This single-purpose district is created for all public body corporate, politic, and local government authority and power limited by the charter and subject to the provisions of other general laws, including expressly chapter 189, Florida Statutes, except that an inconsistent provision in this act shall control and the district has jurisdiction to perform such acts and exercise such projects, functions, and powers as shall be necessary, convenient, incidental, proper, or reasonable for the implementation of its limited, single, and specialized purpose regarding the sound planning, provision, acquisition, development, operation, maintenance, and related financing of those public systems, facilities, services, improvements, projects, and infrastructure works as authorized herein including those necessary and incidental thereto.

Supremacy clauses are provisions that attempt to resolve conflicts between legislative enactments by assigning supremacy or prominence to one provision or set of provisions over another. If a bill includes a general supremacy clause, such as the one contained in this bill, the judiciary determines superiority between general and special law provisions, rather than the Legislature. In addition, general supremacy clauses do not inform interested persons or members of the Legislature of the specific laws containing potential conflicts. Unless the specific laws in conflict are identified, it is suggested that the "supremacy" clause be removed from the bill.

Extraterritorial Services and Projects

This bill provides authority for the district to exercise its powers outside the district boundaries as follows:

The jurisdiction of this district, in the exercise of its general and special powers and in the carrying out of its single, narrow, and special purpose, is both within the external boundaries of the legal description of this district and extraterritorially, when limited to, and as authorized expressly elsewhere in, the charter of the district in this act or applicable general law.

The district is also authorized to, "[u]sing its general and special powers as set forth in this act, to provide for any other project within *or without the boundaries* of a district when the project is the subject of an agreement between the district and the Board of County Commissioners of Okeechobee County or with any applicable other public or private entity, including a homeowner association, and is not inconsistent with the Okeechobee County Comprehensive Plan and the Growth Management act which implement the single special purpose of the district."

The ability of the district to exercise its general and special powers outside its boundaries may raise questions regarding the levy of special assessments on property owners within the district if proceeds of the special assessments, fees, or non-ad valorem taxes are used to fund projects outside the district. The charter is unclear as to when and under what circumstances the district may exercise its powers extraterritorially or how assessments, taxes, and fees will be apportioned to fund projects outside district boundaries.

New Powers to Community Development Districts

Although the district is created pursuant to chapter 189, Florida Statutes, the bill attempts to give the district future powers that may be included in ch. 190, F.S., relating to Community Development Districts as follows:

Any amendments to chapter 190, Florida Statutes, after January 1, 2006, which grant additional general powers, special powers, authorities, or projects to a community development district by amendment to its uniform charter, sections 190.006-190.041, Florida Statutes, shall constitute a general power, special power, authority, or function of the Grove Community District, except that as to any such additional powers, authorities, or projects, this act shall control if there are any related provisions in such additional powers, authorities, or projects inconsistent with the provisions of this act.

Therefore, if the Legislature amends ch. 190, F.S., to grant community development districts additional authority at any time in the future, that additional authority will be automatically granted to the district without further legislative review or enactment.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

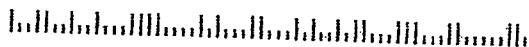
Not applicable.

OKEECHOBEE, FL 34973

1770 U.S. POSTAGE PB35799
0600 \$00.39 FEB 02 20
7313 MAILED FROM ZIP CODE 349

Barron Collier Companies
2600 Golden Gate Parkway
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Published Daily

STATE OF FLORIDA
COUNTY OF OKEECHOBEE

Before the undersigned authority personally appeared Judy Kasten, who on oath says she is Publisher of the Okeechobee News, a DAILY Newspaper published at Okeechobee, in Okeechobee County, Florida; that the attached copy of advertisement, being a

Public Notice

112963

in the matter of

Notice of intent to seek
legislation

in the 19th Judicial District of the Circuit Court of Okeechobee County, Florida, was published in said newspaper in the issues of

February 2, 2006

Affiant further says that the said Okeechobee News is a newspaper published at Okeechobee, in said Okeechobee County, Florida, and that said newspaper has heretofore been published continuously in said Okeechobee County, Florida each week and has been entered as second class mail matter at the post office in Okeechobee, in said Okeechobee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this

day of / February AD 2016

Notary Public, State of Florida at Large

Karmen R. Brown
Commission #DD272118
Expires: Jan 17, 2008
Noted: Tim



**HOUSE OF REPRESENTATIVES
2006 LOCAL BILL CERTIFICATION**

BILL #: HB 1483

SPONSOR(S): Representative Frank Attkisson and Senator J.D. Alexander

RELATING TO: Relating to the creation and establishment by Special Act of an Independent Special District under Chapter 189, Fla. Stat., the Grove Community District.
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Okeechobee County Legislative Delegation

CONTACT PERSON: Randel Patterson, Assistant to Representative Attkisson

PHONE # and E-Mail: (407) 943-3077 randel.patterson@myfloridahouse.gov

- I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bills issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. **Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES ☒ NO ☐

(2) Has a public hearing been held YES ☒ NO ☐

Date hearing held: January 31, 2006

Location: In the chambers of the Okeechobee County Board of County Commissioners

(3) Was this bill formally approved by a majority of the delegation members? YES ☒ NO ☐ UNIT RULE ☐ UNANIMOUS ☐

- II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F.S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES ☒ NO ☐ DATE: February 2, 2006

Where? The Okeechobee News County Okeechobee

Referendum in lieu of publication: YES ☐ NO ☒

- III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?
YES ☒ NO ☐ NOT APPLICABLE ☐

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.


Delegation Chair (Original Signature) Date 2/14/06

1-24-06

**HOUSE OF REPRESENTATIVES
2006 ECONOMIC IMPACT STATEMENT**

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #:

HB 1483

SPONSOR(S):

Representative Frank Attkisson and Senator J.D. Alexander

RELATING TO:

Relating to the creation and establishment by Special Act of an Independent
Special District under Chapter 189, Fla. Stat., the Grove Community District.
[indicate Area Affected (City, County, Special District) and Subject]

**I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND
ENFORCEMENT:**

Expenditures:

FY 07-06
0

FY 07-08
0

II. ANTICIPATED SOURCE(S) OF FUNDING:

Federal:

0

0

State:

0

0

Local:

*0

*0

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenue:

FY 06-07
0

FY 07-08
0

**IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR
GOVERNMENTS:**

Advantages: The District will enhance public revenues that will be generated by the new community for state and local governments through the elimination of the need for state and county funding for basic infrastructure. See section 2 and 4 of the bill.

Disadvantages: None. Landowners, businesses and residents who move into the jurisdiction of the District will pay for special and recreational benefits by user fees or non-ad valorem assessments. See section 2 and 4 of the bill.

* From and as determined by the governing board of the independent district the subject of this Act at noticed meetings if and when appropriate.

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1 A bill to be entitled
2 An act relating to the Grove Community District,
3 Okeechobee County; providing a short title; creating the
4 Grove Community District; providing for findings,
5 determinations, ascertainments, intent, purpose,
6 definitions, and policy; providing a charter; providing
7 jurisdiction; providing boundaries; providing powers of
8 the district; creating the district as a special, limited,
9 and single-purpose independent district, an independent
10 local government, and corporate body politic, to provide
11 community development infrastructure; providing for
12 authority, boundaries, jurisdiction, and charter
13 amendment; providing for a governing board and terms of
14 office and duties thereof; providing for elections;
15 providing for a district manager; providing for bonds;
16 providing for borrowing; providing for future transition
17 to ad valorem taxation; providing for special assessments;
18 providing for issuance of certificates of indebtedness;
19 providing for tax liens; providing minimum charter
20 requirements; providing for the applicability of and
21 compliance with provisions of chapter 189, Florida
22 Statutes, and other general laws; providing for
23 severability; providing for a referendum; providing an
24 effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:
27

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28 Section 1. Short title.--This act may be known as the
29 "Grove Community District Act."

30 Section 2. Legislative findings, ascertainments,
31 determinations, intent, purpose, definitions, and policy.--

32 (1) LEGISLATIVE FINDINGS.--

33 (a) The northeastern area of Okeechobee County is unique
34 and special.

35 (b) The land area of Okeechobee County is relatively
36 untouched and is predominantly used for agriculture or is
37 undeveloped.

38 (c) The economy of Okeechobee County is dominated by farm
39 and retirement industries and:

40 1. Okeechobee County is beginning to experience the
41 economic growth that substantially large parts of the remainder
42 of the state have already experienced.

43 2. While the influence of the farming industry continues
44 to decline, the retirement industry is a major and growing
45 industry.

46 3. Okeechobee County will experience rapid growth in
47 population over the next 20 years, as more retirees move to the
48 state and find coastal housing too expensive and as more
49 residents from coastal Florida counties move inland to
50 Okeechobee County, including northeastern Okeechobee County.

51 (d) In implementing protection of natural resources,
52 retention of viable agriculture, and promotion of a sound
53 economy, the Okeechobee County Comprehensive Plan promotes
54 compact, efficient, and self-sustaining mixed-use development.

(e) Evans Properties, Inc., own or have control over approximately 5,683 acres for the development of an innovative new self-sustaining community that fits the goals, aspirations, and plans for northeastern Okeechobee County.

(f) Within and subject to the comprehensive plan and land development regulations, such a community requires appropriate compact, balanced, self-sustaining, and mixed-use development on a human scale with the required innovative balance of such importance to the northeastern Okeechobee County area.

(g) In particular:

1. Creating a new community in northeastern Okeechobee County requires a critical coinciding of existing and future land use with provision of capital facilities and related systems and services, based upon timely, flexible, and specialized management of critical factors and sequential events, balancing among the interests of private enterprise, agriculture, private citizens, taxpayers, consumers, the environment, the economy, the initial landowners, and all applicable levels of government.

2. All the applicable public and private persons and entities have invested and expended substantial time and moneys to generate the county comprehensive plan and the existing and future consistent specific regulatory and comprehensive planning entitlements and consistent land development regulations for the identification, preparation, and development of a new community.

3. Creating such a new community using a single-purpose special independent district to provide infrastructure constitutes innovative planning and flexible development

83 strategies pursuant to section 163.3177(11), Florida Statutes,
84 and Rule 9J-5.006(5)(1), Florida Administrative Code, to
85 minimize the conversion of agricultural lands to other uses, to
86 discourage urban sprawl, and to protect environmentally
87 sensitive areas while maintaining the economic viability of
88 agricultural and other predominately rural land uses and
89 providing for the efficient use of public facilities and
90 services as provided expressly in objective L7 of the Okeechobee
91 County Comprehensive Plan, Future Land Use Element.

92 (h) There is in particular a special need to use a
93 specialized and limited single-purpose independent district unit
94 of local government for the new community:

95 1. To prevent urban sprawl by providing self-sustaining
96 and freestanding infrastructure and by preventing needless and
97 counterproductive community development when the existing urban
98 area is not yet developed.

99 2. To prevent the needless duplication, fragmentation, and
100 proliferation of local government services in a proposed land
101 use area.

102 (i) Management of public health, safety, welfare,
103 economic, natural, and historic resources in this area of
104 northeastern Okeechobee County transcends the boundaries and
105 responsibilities of both private landowners and individual units
106 of government, so that no one single public or private entity or
107 person can plan or implement policies to deal with the many
108 issues which attend the provision of basic systems, facilities,
109 and services to the area to be managed in northeastern

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Okeechobee County in order to provide for a new community in the area.

(j) It is the expressed set of findings of the Legislature further that:

1. There is a considerably long period of time during which there is an inordinate infrastructure burden on the initial landowners of the agricultural land area for the new community because of the innovative, special, and unique requirements in the Okeechobee County Comprehensive Plan for the northeastern Okeechobee County area, dealing specifically with flexible management and related sequencing, timing, and financing of the various systems, facilities, and services to be provided to the new community, taking into consideration absorption rates, commercial viability, and related factors.

2. Even as the community matures, there is continuing need for landowners, both initial and subsequent, to bear burdens to provide important infrastructure that remain relatively inordinate in order to preserve such inordinate benefits for northeastern Okeechobee County as the unique environmental and economic purpose of the new community.

3. Longer involvement of the initial landowner with regard to the provision of basic systems, facilities, and services in the new community area, coupled with a severely limited and highly specialized single purpose of the district, is in the public interest.

4. Any public or private system to provide basic infrastructure improvements, systems, facilities, and services to this new community in northeastern Okeechobee County must be

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138 focused on an unfettered, highly specialized, innovative,
139 responsive, accountable mechanism to provide the components of
140 infrastructure at sustained levels of high quality over the long
141 term only when and as needed for such a unique community in such
142 a unique area.

143 5. There is a critical need to maintain such provision of
144 such systems, facilities, and services to the new community
145 because of the unique location and attributes of the
146 northeastern Okeechobee County area, coupled with the unique
147 purpose and location of this new community, subject to,
148 complying with, and not inconsistent with the state, regional,
149 and local requirements which attend implementation of the state
150 plan and the county comprehensive plan.

151 6. This need is met by coinciding the use and special
152 attributes of various public and private alternatives for the
153 provision of infrastructure to such a community development,
154 including:

155 a. The public policy and related implementing zoning,
156 permitting, and planning expertise, interests, and capabilities
157 of state and regional government and of the Okeechobee County
158 general-purpose local government;

159 b. The flexible, limited, focused, and locally accountable
160 management and related financing capabilities of independent
161 special-purpose local government; and

162 c. The innovative development and marketing private-sector
163 expertise of the initial landowners, developers, and other
164 components of private enterprise.

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7. The specialized financing and revenue procedures for the levy and imposition of first-lien assessments, by a variety of names, must be disclosed, followed, noticed, fair, nonarbitrary, informed, reasonable, and accountable and must be set forth dispositively.

(k) The existence and use of such a limited specialized single-purpose local government for the new community, subject to the Okeechobee County Comprehensive Plan, will result in a high propensity:

1. To prevent urban sprawl, to protect and preserve environmental, conservation, and agricultural uses and assets, and to enhance the high-quality use of the applicable area of northeastern Okeechobee County;

2. To enhance the market value for both present and future landowners of the property consistent with the need to protect private property rights in the northeastern Okeechobee area;

3. To enhance the net economic benefit to the Okeechobee County area, including an enhanced and well-maintained tax base to the benefit of all present and future taxpayers in Okeechobee County; and

4. To share the costs for providing such basic systems, facilities, and services in an innovative, sequential, and flexible manner within the new community to be serviced by the Grove Community District.

(2) ASCERTAINMENTS.--Based upon these findings, the Legislature has learned and ascertains that:

(a) There are two public or governmental alternatives and one private alternative available to plan, construct, maintain,

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and finance the provision of systems, facilities, and services
in the intended new community area of northeastern Okeechobee
County:

1. One of the public or governmental alternatives for such
infrastructure provision is by the board of county commissioners
within the Okeechobee County political subdivision which can
provide certain basic systems, facilities, and services directly
or with management by its staff with financing through either a
municipal service taxing unit for ad valorem taxes or municipal
service benefit for assessments, or indirectly by nonemergency
ordinance use of a dependent district.

2. The second public alternative is use of an independent
special district.

3. The private alternative is the private landowner, a
private homeowner association, a private utility, a private
business corporation, or a partnership or combination of these
various private alternatives.

(b) Planning, permitting, and creating the new community
and using the independent specialized single-purpose Grove
Community District created by this act are consistent with and
implement both the Okeechobee County Comprehensive Plan and Land
Development Regulations and also the following long-standing and
expressed policies of the state:

1. To allow the creation of independent special taxing
districts which have uniform general law standards and
procedures and which do not overburden other local governments
and their taxpayers while preventing the proliferation of

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220 independent special taxing districts which do not meet the
 221 standards set forth in section 187.201(20), Florida Statutes.

222 a. There are two alternatives for the use of independent
 223 special districts. One alternative is establishment on the
 224 approximately 5,683 acres by rule of the Governor and Cabinet of
 225 a uniform community development district; the other is a special
 226 independent district meeting the minimum requirements of chapter
 227 189, Florida Statutes, the applicable district accountability
 228 general law.

229 b. Use of this special act, creating and establishing the
 230 district on the approximately 5,683 acres in northeastern
 231 Okeechobee County, is the better of the two independent district
 232 alternatives because it updates the charter of a community
 233 development district under chapter 190, Florida Statutes,
 234 eliminates potential for its abuse, clarifies and sets forth
 235 certain uniform procedures for liens on property and for access
 236 by the public to the property, and makes other substantial
 237 reforms to the benefit of the people of Okeechobee County and
 238 future landowners, residents, and visitors.

239 2. To encourage the development of local water supplies,
 240 pursuant to section 187.201(7)(b)3., Florida Statutes.

241 3. To recognize the existence of legitimate and often
 242 competing public and private interests and land use regulations
 243 and other government action, pursuant to section 187.201(14)(a),
 244 Florida Statutes.

245 4. Consistent with the Okeechobee County Comprehensive
 246 Plan, to recognize the importance of preserving natural
 247 resources and enhancing quality of life by development in those

248 areas where land and water resources, fiscal abilities, and
249 service capacity can accommodate the land use and growth in a
250 manner that is environmentally acceptable, pursuant to section
251 187.201(15)(a), Florida Statutes.

252 5. To allocate costs of new public facilities on the basis
253 of benefits received by existing and future residents while
254 planning for the management and financing of new facilities to
255 serve residents in a timely, orderly, and efficient manner,
256 pursuant to section 187.201(17)(a) and (b)3., Florida Statutes.

257 6. To encourage local government financial self-
258 sufficiency in providing public facilities and to identify and
259 implement fiscally sound, innovative, and cost-effective
260 techniques to provide and finance public facilities while
261 encouraging development, use, and coordination of capital
262 improvement plans by all levels of government, pursuant to
263 section 187.201(17)(b)5., 6., and 7., Florida Statutes, as
264 provided also in the Okeechobee County Comprehensive Plan.

265 7. To increase, promote, and provide access to cultural,
266 historical, and educational resources and opportunities,
267 pursuant to section 187.201(18)(a) and (b)1., Florida Statutes.

268 8. To enhance and diversify the economy of the Okeechobee
269 County area by promoting partnerships among education, business,
270 industry, agriculture, and the arts, provide opportunities for
271 training skilled employees for new and expanding businesses, and
272 promote self-sufficiency through training and educational
273 programs that result in productive employment, pursuant to
274 section 187.201(21)(a) and (b)6., 7., and 8., Florida Statutes.

275 9. To encourage and enhance cooperation among communities
276 that have unique assets, irrespective of political boundaries,
277 to bring the private and public sectors together for
278 establishing an orderly, environmentally sound, and economically
279 sound plan for current and future needs and growth, pursuant to
280 section 187.201(25)(b)8., Florida Statutes.

281 10. To create independent special districts by or pursuant
282 to general law to ensure long-term management and related
283 financing, to meet the need in the state for timely, efficient,
284 effective, responsive, innovative, accountable, focused, and
285 economic ways to deliver basic services to new communities to
286 solve the state's planning, management, and financing needs for
287 delivery of capital infrastructure in order in turn to provide
288 for projected growth only and to do so without overburdening
289 other governments and their taxpayers, pursuant to section
290 189.402, Florida Statutes, so that providing to the new
291 community basic systems, facilities, and services by independent
292 special districts remains pursuant to uniform general law and
293 section 189.402(3)(a) and (c), Florida Statutes.

294 11. To ensure that those independent districts and the
295 exercise of their powers are consistent and comply with
296 applicable due process, disclosure, accountability, ethics, and
297 government-in-the-sunshine requirements of law, both to the
298 independent districts and to their elected and appointed
299 officials, pursuant to section 189.402(3)(b), Florida Statutes,
300 because independent special districts are a legitimate
301 alternative method available for use by both the public and
302 private sectors to manage, own, operate, construct, and finance

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303 basic capital infrastructure systems, facilities, and services,
304 pursuant to section 189.402(4)(a), Florida Statutes.

305 12. To ensure that an independent special district is
306 created to serve a special purpose to cooperate and to
307 coordinate its activities with the applicable general-purpose
308 local government because aspects of growth and development
309 transcend boundaries and responsibilities of individual units of
310 government so that no single unit of government can plan or
311 implement policies to deal with these issues unilaterally as
312 effectively, pursuant to section 189.402(7) and (8), Florida
313 Statutes.

314 (c) Construction, operation, and development of the new
315 community and the use of the special and single-purpose
316 independent district are not inconsistent with the Okeechobee
317 County Comprehensive Plan.

318 (d) This land area for the new community requires an
319 independent, special, and single-purpose local government, in
320 the form of an independent special district as defined in
321 section 189.403(3), Florida Statutes, subject to all substantive
322 and procedural limitations under state law, including this act,
323 in order to constitute itself a highly specialized alternative
324 and viable growth management concurrency mechanism appropriate
325 for this unique area, available to both the private and public
326 sectors.

327 (e) Such a district requires timely, flexible, limited,
328 and specialized management and related financing capabilities
329 under its uniform state charter, created by this act pursuant to
330 general law, in order to produce those flexible, innovative, and

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highly specialized benefits to the new community property in
northeastern Okeechobee County.

(f) Such a district must have management capabilities to
provide pinpointed, focused, accountable, responsive, limited,
specialized, and low-overhead-based capability, authority, and
power to provide basic systems, facilities, and services to the
new community development with economies of scale but at
sustained high levels of quality over the long term.

(g) In order to be responsive to the critical timing
required through the exercise of its special management
functions, an independent district requires financing of those
functions, including bondable lienable and nonlienable revenue,
with full and continuing public disclosure and accountability,
funded by landowners, both present and future, and funded also
by users of the systems, facilities, and services provided to
the land area by the district, without burdening the taxpayers
and citizens of the state or of Okeechobee County or any
municipality in Okeechobee County.

(h) The provision of services by this independent district
must implement, be subject to, and function not inconsistent
with any related permitting and planning requirements of
Okeechobee County and of the Okeechobee County Comprehensive
Plan and Land Development Regulations.

(i) The creation, existence, and operation of the Grove
Community District, as limited and specialized to its single
narrow purpose, will also:

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1. Constitute a public mechanism to translate the anti-urban-sprawl objective of the Okeechobee County Comprehensive Plan Future Land Use Element into reality.

2. Constitute a disincentive for premature or inappropriate municipal incorporation consistent with state law.

3. Result in self-contained and self-sustained high-quality infrastructure over the long term.

4. Provide a mechanism for full and continuing disclosure of how basic systems, facilities, and services are both managed and financed, including full and continuing disclosure to both prospective purchasers and all residents of public financing related to any burdens of land ownership and any related burdens on existing or future residents.

5. Implement the Okeechobee County Comprehensive Plan Future Land Use Element because innovative land techniques that use public facilities efficiently, that meet county needs, and that promote a sense of pride and community for its residents are encouraged where the new community is located.

(j) The district is also a mechanism to implement the Okeechobee County Concurrency Management System designed to coincide with, and to implement, both the Okeechobee County future land use element and the capital improvements element for basic systems, facilities, and services consistent with the best interests of the new community.

(k) By serving its single specialized purpose and in preventing urban sprawl, the district will not result in needless proliferation, duplication, and fragmentation of local

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government systems, facilities, and services in this area of
northeastern Okeechobee County.

(l) Subject to its substantive and procedural limitations,
the district will assist directly in public and combined public
and private planning and coordination in order to achieve
innovative solutions to the needs and requirements in this
unique new community located in northeastern Okeechobee County.

(m) Management of the timing and phasing of critical
sequential events, coordinated by the initial private landowner
and the Board of County Commissioners of Okeechobee County, is
of fundamental importance and is the basis of the inordinate
burden on the initial landowner developer and to enhance the
provision of sustained high-quality infrastructure over the long
term to enhance the intrinsic value of the new community in
order to implement its requirements.

(n) The critical single purpose of the district to provide
basic infrastructure systems, facilities, services, works,
infrastructure, and improvements to the private new community is
in the public interest because it:

1. Does not pass on taxes or profits to purchasers of
property or to landowners and residents within their
jurisdictions.

2. Results in less tendency for short-term planning,
construction, and management considerations because the
elections for members of the government board are staggered.

3. Is not influenced, guided, or limited by quarterly and
annual profit statements.

4. Does not have police or regulatory powers.

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5. Does not have larger general-purpose overhead responsibilities.

6. Is not subject to legitimate but countervailing fiscal, economic, policy, and political considerations to which large general-purpose local governments and large landowners and developers would be subject in the natural course of events.

7. Does not constitute needless duplication, proliferation, or fragmentation of local government systems, facilities, and services in Okeechobee County.

8. Shall operate and function subject to and not inconsistent with the county comprehensive plan with least overhead cost and with the highest amount of the public disclosure, accountability, responsiveness, and productivity.

9. Coincides its functions with the authority and best interests of local general-purpose government, the private landowners, both present and future, the taxpayers, the future residents, and the state in the provision of needed infrastructure to the community at sustained levels of quality over the long term.

10. Provides highly accountable innovative systems, facilities, and services close to the land and close to the people.

11. Serves a land area that is amenable to separate special district government.

12. Serves a land area that is sufficiently compact and of size sufficient for the functionally interrelated new community development.

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13. Serves a land area in which there is no existing local or regional system, facility, or service with which creation and operation of this district and the provision of its systems, facilities, improvements, and infrastructure would be incompatible.

14. Will enhance the intrinsic value of the property and the new community development and be a sustaining source of public revenue.

(o) The independent district charter created in this act involves innovative general and special powers not otherwise available for this unique and highly specialized first ever new community in such a unique area.

(p) The minimum requirements of general law or creation of this district by special act have been met as confirmed and set forth expressly in section 3(1).

(3) DETERMINATIONS.--Based upon its findings and ascertainment, the Legislature states expressly and determines that:

(a) This act represents the findings, ascertainment, and determinations of the Legislature that creating the Grove Community District by special act pursuant to general law is the best alternative as required by section 189.404(2)(e)3., Florida Statutes, because it meets affirmatively the findings and ascertainment of this Legislature set forth hereinabove.

(b) The creation by this act of the district in the area of northeastern Okeechobee County is consistent affirmatively with the Okeechobee County Comprehensive Plan.

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(c) The authority for this act is pursuant to section 189.404, Florida Statutes, and the State Comprehensive Plan pursuant to section 187.201, Florida Statutes.

(d) The Board of County Commissioners of Okeechobee County, on January 12, 2006, adopted Resolution 2006-1, expressing no objection to the creation and establishment of the Grove Community District and finding it consistent with the Okeechobee County Comprehensive Plan as provided in section 189.404(2)(e)4., Florida Statutes.

(4) INTENT.--Based upon its findings, ascertainments, and determinations, the Legislature expresses its intent:

(a) To ensure that the creation and operation of the Grove Community District by and pursuant to this act, exercising its management and related financing powers to implement its limited, single, and special purpose, is not a development order and does not trigger or invoke any development provision within the meaning of chapter 380, Florida Statutes, and all applicable governmental planning, environmental, and land development laws, regulations, rules, policies, and ordinances apply to all development of the land within the jurisdiction of the district created by this act.

(b) That the district operate and function subject to, and not inconsistent with, the Okeechobee County Comprehensive Plan and Land Development Regulations and any applicable development orders, zoning regulations, or other land development regulations.

(c) That under this act, this special and single-purpose Grove Community District shall not have the power of a general-

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purpose local government to adopt a comprehensive plan or
related land development regulations as those terms are defined
in the Local Government Comprehensive Planning and Land
Development Regulation Act.

(d) That the Grove Community District created by this act
constitute an innovative mechanism for long-term, sustained
quality public stewardship through the planning, implementation,
construction, management, and related financing of basic
systems, facilities, services, and infrastructure projects for
the self-contained and self-sustained mixed-use new community.

(e) That it is in the public interest that this limited,
independent, specialized, and single-purpose district local
government have perpetual existence subject only to legislative
review as provided in its charter in this act so that it is not
in a position to outlive its usefulness.

(f) That the exercise by this Grove Community District of
its powers to carry out its single purpose under its charter as
created by this act is consistent with applicable due process,
disclosure, accountability, ethics, conflict of interest,
government-in-the-sunshine, competitive procurement, including
its employees or consultants, competitive negotiation, and
competitive bidding requirements, both as to the government
entity itself and as to its appointed or elected officials as
required in this act.

(5) PURPOSE.--The limited, single, and specialized purpose
of the Grove Community District is to provide community
development systems, facilities, services, projects,
improvements, and infrastructure to the new community by

522 exercising its various management powers, with related financing
523 powers, both general and special, as set forth by and limited by
524 this act.

525 (6) DEFINITIONS.--As used in this act:

526 (a) "Ad valorem bonds" means bonds which are payable from
527 the proceeds of ad valorem taxes levied on real and tangible
528 personal property and which are generally referred to as general
529 obligation bonds.

530 (b) "Assessable improvements" means, without limitation,
531 any and all public improvements and community facilities that
532 the district is empowered to provide in accordance with this
533 act, which provide a special benefit to property within the
534 district.

535 (c) "Assessment bonds" means special obligations of the
536 district which are payable solely from proceeds of the special
537 assessments or benefit special assessments levied for assessable
538 improvements; however, in lieu of issuing assessment bonds to
539 fund the costs of assessable improvements, the district may
540 issue revenue bonds for such purposes payable from special
541 assessments.

542 (d) "Assessments" means those nonmillage district
543 assessments which include special assessments, benefit special
544 assessments, and maintenance special assessments and a
545 nonmillage, non-ad valorem maintenance tax if authorized by
546 general law.

547 (e) "Benefit special assessments" are district assessments
548 imposed, levied, and collected pursuant to the provisions of
549 section 4(14) (b).

(f) "Board" means the governing board of the district or, if such board has been abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given to the board by this act have been given by law.

(g) "Bond" includes "certificate," and the provisions which are applicable to bonds are equally applicable to certificates. The term "bond" includes any general obligation bond, assessment bond, refunding bond, revenue bond, and other such obligation in the nature of a bond as is provided for in this act, as the case may be.

(h) "Cost" or "costs," when used with reference to any project, include, but are not limited to:

1. The expense of determining the feasibility or practicability of acquisition, construction, or reconstruction.
2. The cost of surveys, estimates, plans, and specifications.
3. The cost of improvements.
4. Engineering, fiscal, and legal expenses and charges.
5. The cost of all labor, materials, machinery, and equipment.
6. The cost of all lands, properties, rights, easements, and franchises acquired.
7. Financing charges.
8. The creation of initial reserve and debt service funds.
9. Working capital.
10. Interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reasonable period of time after

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completion of construction or acquisition as the board may
determine.

11. The cost of issuance of bonds pursuant to this act,
including advertisements and printing.

12. The cost of any bond or tax referendum held pursuant
to this act and all other expenses of issuance of bonds.

13. The discount, if any, on the sale or exchange of
bonds.

14. Administrative expenses.

15. Such other expenses as may be necessary or incidental
to the acquisition, construction, or reconstruction of any
project or to the financing thereof or to the development of any
lands within the district.

16. Payments, contributions, dedications, and any other
exactions required as a condition to receive any government
approval or permit necessary to accomplish any district purpose.

(i) "Developed urban area" means any reasonably compact
urban area.

(j) "District" or "Grove Community District" means the
unit of special and single-purpose local government created and
chartered by this act, including the creation of its charter,
and limited to the performance, in implementing its single
purpose, of those general and special powers authorized by its
charter under this act; the boundaries of which are set forth by
the act; and the governing head of which is created and
authorized to operate with legal existence by this act and the
purpose of which is as set forth in this act.

(k) "District manager" means the manager of the district.

606 (l) "District roads" means highways, streets, roads,
 607 alleys, sidewalks, landscaping, storm drains, bridges, and
 608 thoroughfares of all kinds of descriptions.

609 (m) "General obligation bonds" means bonds which are
 610 secured by, or provide for their payment by, the pledge, in
 611 addition to those special taxes levied for their discharge and
 612 such other sources as may be provided for their payment or
 613 pledged as security under the resolution authorizing their
 614 issuance, of the full faith and credit and taxing power of the
 615 district and for payment of which recourse may be had against
 616 the general fund of the district.

617 (n) "Governing board member" means any member of the
 618 board.

619 (o) "Land development regulations" means those regulations
 620 of general-purpose local government, adopted under the Local
 621 Government Comprehensive Planning and Land Development
 622 Regulations Act, the Growth Management Act, and chapter 163,
 623 Florida Statutes, to which the district is subject and as to
 624 which the district may not doing anything that is inconsistent;
 625 but this term does not mean specific management engineering,
 626 planning, and other criteria and standards needed in the daily
 627 management and implementation by the district of its provision
 628 of basic systems, facilities, services, works, improvements,
 629 projects, or infrastructure, including design criteria and
 630 standards, so long as they remain subject to and are not
 631 inconsistent with the Okeechobee County Comprehensive Plan and
 632 the applicable land development regulations.

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(p) "Landowner" means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act. "Landowner" also means the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years.

(q) "Local general-purpose government" means a county, municipality, or consolidated city-county government.

(r) "Maintenance special assessments" means assessments imposed, levied, and collected pursuant to the provisions of section 4(14)(d).

(s) "Non-ad valorem assessments" means those assessments levied and imposed by the board which are not based upon millage and which constitute, pursuant to the provisions hereof, first liens on the properties subject thereto, coequal with the liens of state, county, municipal, and school board taxes:

1. If and when pursuant to general law, those nonmillage and non-ad valorem taxes, limited expressly and only to those certain maintenance taxes provided for expressly in the district charter in this act which are not ad valorem taxes and are not special assessments.

2. Assessments which are not taxes and are special assessments levied and imposed by the board pursuant to an informed and nonarbitrary determination by the board that the systems, facilities, and services will provide, as a logical

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661 connection to the applicable parcels of property, special
 662 benefits peculiar to the property, different in kind and degree
 663 than general benefits and that the duty to pay per parcel will
 664 be apportioned in a manner that is fair and reasonable; and
 665 which may be known and referred to as "assessments," "special
 666 assessments," "maintenance assessments," or "benefit
 667 assessments" as defined by and as may be applicable in the
 668 context of this charter. The levy of maintenance assessments to
 669 maintain a system or facility constructed and financed by
 670 special assessments levied by the district may be based on the
 671 assessment methodology by which the construction special
 672 assessments are levied but upon a determination that the
 673 maintenance special assessments also provide a special and
 674 peculiar benefit to the property and are apportioned in a manner
 675 that is fair and reasonable.

676 3. Any assessments which may be levied, imposed, and
 677 equalized by the board by rule of the district.

678 (t) "Powers" means powers as used and exercised by the
 679 board to accomplish the single, limited, and special purpose of
 680 the district, including:

681 1. "General powers," as provided in the act for the
 682 district charter, which means those organizational and
 683 administrative powers of the district as provided in this act in
 684 its charter in order to carry out its single special purpose as
 685 a local government public corporate body politic.

686 2. "Special powers," means those powers enumerated by the
 687 act in the charter of the district to carry out its specialized
 688 systems, facilities, services, projects, improvements, and

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infrastructure and related functions in order to carry out its
single specialized purpose.

3. Any other powers, authority, and functions set forth in
this act.

(u) "Project" means any development, improvement,
property, power, utility, facility enterprise, service, system,
facility, works, or infrastructure now existing or hereafter
undertaken or established under the provisions of this act.

(v) "Qualified elector" means any person at least 18 years
of age who is a citizen of the United States, is a legal
resident of the state and the district, and registers to vote
with the supervisor of elections in the county in which the
district land is located.

(w) "Refunding bonds" means bonds issued to refinance
outstanding bonds of any type of the interest and redemption
premium thereon. Refunding bonds shall be issuable and payable
in the same manner as the refinanced bonds except that no
approval by the electorate shall be required unless required by
the State Constitution.

(x) "Revenue bonds" means obligations of the district
which are payable from revenues, including, but not limited to,
special assessments and benefit special assessments, derived
from sources other than ad valorem taxes on real or tangible
personal property and which do not pledge the property, credit,
or general tax revenue of the district.

(y) "Sewer system" means any plant, system, facility, or
property and additions, extensions, and improvements thereto at
any future time constructed or acquired as part thereof useful

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717 or necessary or having the present capacity for future use in
 718 connection with the collection, treatment, purification, or
 719 disposal of sewage, including, without limitation, industrial
 720 wastes resulting from any process of industry, manufacture,
 721 trade, or business or from the development of any natural
 722 resource. Without limiting the generality of the foregoing, the
 723 term "sewer system" includes treatment plants, pumping stations,
 724 lift stations, valves, force mains, intercepting sewers,
 725 laterals, pressure lines, mains, and all necessary appurtenances
 726 and equipment; all sewer mains, laterals, and other devices for
 727 the reception and collection of sewage from premises connected
 728 therewith; and all real and personal property and any interest
 729 therein, rights, easements, and franchises of any nature
 730 relating to any such system and necessary or convenient for
 731 operation thereof.

732 (z) "Special assessments" means assessments as imposed,
 733 levied, and collected by the district for the costs of
 734 assessable improvements pursuant to the provisions of this act,
 735 chapter 170, Florida Statutes, the additional authority under
 736 section 197.3631, Florida Statutes, or other provisions of
 737 general law now or hereinafter enacted which provide or
 738 authorize a supplemental means to impose, levy, and collect
 739 special assessments.

740 (aa) "Taxes" or "tax" means those levies and impositions
 741 by the board which support and pay for government and the
 742 administration of law and which may be:

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1. "Ad valorem" or "property" taxes based upon both the appraised value of property and millage, at a rate uniform within the jurisdiction.

2. If and when authorized by general law, "non-ad valorem maintenance taxes" not based on millage which are used to maintain district systems, facilities, and services.

(bb) "Urban area" means a developed and inhabited urban area within the district within a minimum acreage resident population density of least 1.5 persons per acre as defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas shall be designated by the board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the jurisdiction of the district.

(cc) "Water system" means any plant, system, facility, or property and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof useful or necessary or having the present capacity for future use in connection with the development of sources, treatment, or purification and distribution of water. Without limiting the generality of the foregoing, the term "water system" includes dams, reservoirs, storage, tanks, mains, lines, valves, pumping stations, laterals, and pipes for the purpose of carrying water to the premises connected with such system and all rights,

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easements, and franchises of any nature relating to any such system and necessary or convenient for the operation thereof.

(7) POLICY.--Based upon its findings, ascertainments, determinations, intent, purpose, and definitions, the Legislature states its policy expressly:

(a) The district and district charter, with its general and special powers, created in this act are essential and the best alternative for the unique location and nature of the new community for residential, commercial, academic, and other community uses, projects, or functions in northeastern Okeechobee County consistent with and designed to enhance the Okeechobee County Comprehensive Plan and to serve a lawful public purpose.

(b) This district, a local government and corporate body politic, is limited to its single, narrow, and special legislative purpose herein expressed, with the power to provide, plan, implement, construct, maintain, and finance as a local government management entity its basic systems, facilities, services, improvements, infrastructure, and projects and possessing financing powers to fund its management purpose over the long term.

(c) This act may be amended only by special act of the Legislature in whole or in part.

Section 3. Minimum general law requirements; creation and establishment; boundaries; jurisdiction; construction; charter with legal description.--

(1) MINIMUM CHARTER REQUIREMENTS.--Pursuant to section 189.404(3), Florida Statutes, the Legislature sets forth that

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798 the minimum requirements in paragraphs (a) through (o) have been
799 met in the identified provisions of the act as follows:

800 (a) The purpose of the district is stated in the act in
801 section 2, subsection (5).

802 (b) The powers, functions, and duties of the district are
803 set forth generally in section 4, subsection (3), paragraphs (g)
804 and (h) and subsections (5)-(16), (18), (19), (21), (25), and
805 (32) as to which:

806 1. Taxation provisions are set forth in section 2,
807 subsection (6), paragraph (aa); section 4, subsection (3),
808 paragraph (h); subsection (14), paragraphs (a), (c), (f), (g),
809 and (i); and subsections (17), (18), and (19).

810 2. Bond issuance provisions are set forth generally in
811 section 2; section 4, subsection (8), paragraph (d); subsections
812 (10)-(13), and subsection (16), paragraphs (b) and (c).

813 3. Provisions regarding the other revenue-raising
814 capabilities are set forth in section 2, subsection (6),
815 paragraphs (b), (d), (r), (s), and (z); and section 4,
816 subsections (10) and (11); subsection (14), paragraphs (b), (d),
817 (e), (h), (i), and (j); and subsections (15) and (16).

818 4. Provisions regarding fees, rentals, and charges are set
819 forth in section 2, subsection (6); section 4, subsection (8),
820 paragraph (i); and subsections (22)-(25).

821 5. Provisions regarding budget preparation and approval
822 are set forth in section 4, subsections (5), (6), and (9).

823 6. Provisions regarding liens and foreclosures of liens
824 are set forth in section 4, subsection (14), paragraphs (f),
825 (g), (h), and (i); and subsections (15), (17), (18), and (19).

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826 7. Provisions regarding the use of tax deeds and tax
827 certificates as appropriate for non-ad valorem assessments are
828 set forth in section 4, subsection (8), paragraph (o);
829 subsection (14), paragraphs (b), (c), (d), (e), (f), (h), and
830 (i); and subsection (15).

831 8. Provisions regarding contractual agreements are set
832 forth in section 4, subsection (8), paragraphs (c), (l), (p),
833 (r), and (s); and subsection (9), paragraphs (k), (o), (p), (s),
834 (t), (v), and (w).

835 (c) Provisions for methods for establishing the district
836 are set forth in section 2, subsection (6), paragraph (j) and
837 this section and are effective as provided in section 6.

838 (d) Provisions regarding methods for amending the charter
839 of the district are set forth in section 2 of subsection (7),
840 paragraph (c); subsection (4) of this section; and section 4 of
841 subsection (28).

842 (e) Provisions regarding aspects of the governing board
843 are set forth as follows:

844 1. Provisions regarding the membership of the governing
845 board are set forth in section 4, subsection (3), paragraph (b)
846 and subsection (4), paragraph (c).

847 2. Provisions regarding the organization of the governing
848 board are set forth in section 4, subsection (3), paragraphs
849 (b)-(d) and subsection (4), paragraph (c).

850 3. Provisions regarding the requirement of five board
851 members are set forth in section 4, subsection (3), paragraph
852 (b) and subsection (4), paragraph (c), subparagraph 1.

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853 4. Provisions regarding the quorum of the governing board
854 are set forth in section 4, subsection (3), paragraph (b) and
855 subsection (4), paragraph (c), subparagraph 1., sub-subparagraph
856 e.

857 (f) Provisions regarding maximum compensation of each
858 board member are set forth in section 4, subsection (4),
859 paragraph (c), and in particular in subparagraph 1., sub-
860 subparagraph h.

861 (g) Provisions regarding the administrative duties of the
862 governing board are set forth in section 4, subsections (5)-(8).

863 (h) Provisions applicable to financial disclosure,
864 noticing, and reporting requirements for:

865 1. Financial disclosure are set forth in section 4,
866 subsections (6) and (7).

867 2. Voting are set forth in section 4, subsections (3) and
868 (4).

869 3. Reporting requirements are set forth in section 4,
870 subsections (5)-(7) and (31).

871 (i) Provisions regarding procedures and requirements for
872 issuing bonds are set forth in section 4, subsection (12),
873 paragraphs (a)-(q), and subsection (13).

874 (j) Provisions regarding elections or referenda are:

875 1. For procedures for elections, set forth in section 4,
876 subsections (3) and (4), and regarding referenda, set forth in
877 section 4, subsection (14), paragraph (a).

878 2. For qualifications of an elector of the district, a
879 qualified elector, set forth in section 2, subsection (6),

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880 paragraph (v) and section 4, subsection (3), paragraphs (b) and
881 (c).

882 3. For referenda, set forth in section 4, subsection (4),
883 paragraph (b).

884 (k) Provisions regarding methods for financing the
885 district are set forth generally in section 4, subsections (10),
886 (11), (14), (15), (16), (17), (18), and (19).

887 (l) Other than taxes levied for the payment of bonds and
888 taxes levied for periods not longer than 2 years when authorized
889 by vote of the electors of the district, provisions for:

890 1. The authority to levy ad valorem taxes are set forth in
891 section 4, subsection (3), paragraph (h) and subsection (14),
892 paragraph (a); and section 2, subsection (6), paragraph (aa),
893 subparagraph 1.

894 2. The authorized millage rate are set forth in section 4,
895 subsection (14), paragraph (a).

896 (m) Provisions for the method or methods of collecting
897 non-ad valorem assessments, fees, or service charges are:

898 1. For collecting non-ad valorem assessments, set forth in
899 section 4, subsection (14), paragraphs (b), (c), (d), (e), (h)
900 and, (i), and subsection (15).

901 2. For collecting fees and service charges, set forth in
902 section 4, subsection (22).

903 (n) Provisions for planning requirements are as limited by
904 the provisions of section 2 and this section and as limited
905 further by section 4, subsections (8) and (9).

906 (o) Provisions for geographic boundary limitations of the
907 district are set forth in subsections (2)-(4) of this section
908 and section 4, subsection (2).

909 (2) CREATION AND ESTABLISHMENT.--The Grove Community
910 District is created and incorporated hereby as a public body,
911 corporate and politic, a political subdivision, an independent,
912 limited, special, and single-purpose local government, and an
913 independent special district under section 189.404, Florida
914 Statutes, and as defined in this act and in section 189.403(3),
915 Florida Statutes, in and for northeastern Okeechobee County. Any
916 amendments to chapter 190, Florida Statutes, after January 1,
917 2006, which grant additional general powers, special powers,
918 authorities, or projects to a community development district by
919 amendment to its uniform charter, sections 190.006-190.041,
920 Florida Statutes, shall constitute a general power, special
921 power, authority, or function of the Grove Community District,
922 except that as to any such additional powers, authorities, or
923 projects, this act shall control if there are any related
924 provisions in such additional powers, authorities, or projects
925 inconsistent with the provisions of this act. Because all
926 notices for the enactment by the Legislature of this special act
927 have been provided pursuant to the State Constitution, the laws
928 of Florida, and the rules of the House of Representatives and
929 the Senate, and because Okeechobee County is not a charter
930 county, no referendum subsequent to the effective date of this
931 act is required. The district, as created by this act, is
932 established on the property pursuant to sections 4(2) and 6.

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(3) TERRITORIAL BOUNDARIES.--The territorial boundary of the district shall embrace and include, without reservation or enclave, all of that certain real property described legally in section 4(2).

(4) JURISDICTION.--The jurisdiction of this district, in the exercise of its general and special powers and in the carrying out of its single, narrow, and special purpose, is both within the external boundaries of the legal description of this district and extraterritorially, when limited to, and as authorized expressly elsewhere in, the charter of the district in this act or applicable general law. This single-purpose district is created for all public body corporate, politic, and local government authority and power limited by the charter and subject to the provisions of other general laws, including expressly chapter 189, Florida Statutes, except that an inconsistent provision in this act shall control and the district has jurisdiction to perform such acts and exercise such projects, functions, and powers as shall be necessary, convenient, incidental, proper, or reasonable for the implementation of its limited, single, and specialized purpose regarding the sound planning, provision, acquisition, development, operation, maintenance, and related financing of those public systems, facilities, services, improvements, projects, and infrastructure works as authorized herein including those necessary and incidental thereto.

(5) EXCLUSIVE CHARTER.--The charter of the Grove Community District is this act and may be amended, terminated, or repealed

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only by special act of the Legislature amending or repealing
this act.

Section 4. Disposition of sections 2 and 3; legal
description; exclusive charter of the Grove Community
District.--

(1) INCORPORATION AND DISPOSITION OF SECTIONS 2 AND
3.--Sections 2 and 3 of this act are true and correct and are
incorporated herein and made a part of this section as
dispositive provisions of law. This act constitutes the
exclusive charter of the Grove Community District.

(2) LEGAL DESCRIPTION.--The metes and bounds legal
description of the district, within which there are no enclaves
or parcels of property owned by those who do not wish their
property to be included within the district, is as follows:

METES AND BOUNDS DESCRIPTION

Grove Community District

LEGAL DESCRIPTION:

(OFFICIAL RECORDS BOOK 230, PAGE 571, PUBLIC RECORDS,
OKEECHOBEE COUNTY, FLORIDA)

ALL OF SECTIONS 1, 2, 3, 10, 11, 12, 13, 14, AND 15,
IN TOWNSHIP 34 SOUTH, RANGE 36 EAST, OKEECHOBEE
COUNTY, FLORIDA, LESS AND EXCEPT THE FOLLOWING
DESCRIBED LANDS:

BEGINNING AT A CONCRETE MONUMENT MARKING THE SOUTHEAST
CORNER OF SAID SECTION 13, RUN NORTH 89°26'05" WEST A

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988 DISTANCE OF 5284.42 FEET TO AN IRON PIPE MARKING THE
 989 SOUHWEST CORNER OF SAID SECTION 13; THENCE RUN SOUTH
 990 89°42'28" WEST A DISTANCE OF 5114.05 FEET ALONG THE
 991 SOUTH LINE OF SECTION 14 TO AN IRON PIPE AT THE SW
 992 CORNER THEREOF; THENCE RUN NORTH 89°31'14" WEST ALONG
 993 THE SOUTH LINE OF SECTION 15 A DISTANCE OF 5302.02
 994 FEET TO A CONCRETE MONUMENT MARKING THE SOUTHWEST
 995 CORNER OF SAID SECTION 15; THENCE RUN NORTH 00°00'14"
 996 EAST ALONG THE WEST LINE OF SECTION 15 A DISTANCE OF
 997 174.49 FEET; THENCE RUN SOUTH 89°12'07" EAST ALONG A
 998 FENCE LINE A DISTANCE OF 5302.87 FEET TO A POINT WHICH
 999 IS 145 FEET NORTH OF THE SOUTHWEST CORNER OF SAID
 1000 SECTION 14; THENCE RUN SOUTH 00°12'46" WEST A DISTANCE
 1001 OF 20.0 FEET; THENCE RUN NORTH 89°42'28" EAST ALONG A
 1002 LINE LYING PARALLEL TO AND 125 FEET NORTH OF THE SOUTH
 1003 LINE OF SECTION 14 A DISTANCE OF 5113.88 FEET TO A
 1004 POINT WHICH IS 125 FEET NORTH OF THE SOUTHWEST CORNER
 1005 OF SECTION 13; THENCE RUN SOUTH 89°26'05" EAST ALONG A
 1006 LINE PARALLEL TO AND 125 FEET NORTH OF THE SOUTH LINE
 1007 OF SECTION 13 A DISTANCE OF 5149.10 FEET TO A POINT
 1008 WHICH IS 135 FEET WEST AND 125 FEET NORTH OF THE
 1009 SOUTHEAST CORNER OF SECTION 13; THENCE RUN NORTH
 1010 00°00'22" WEST A DISTANCE OF 100 FEET; THENCE RUN
 1011 SOUTH 89°26'05" EAST A DISTANCE OF 135 FEET TO THE
 1012 EAST LINE OF SAID SECTION 13; THENCE RUN SOUTH
 1013 00°00'22" EAST A DISTANCE OF 225 FEET TO THE POINT OF
 1014 BEGINNING AT THE SOUTHEAST CORNER OF SECTION 13,

TOWNSHIP 34 SOUTH, RANGE 36 EAST, OKEECHOBEE COUNTY,
FLORIDA, CONTAINING 5683.29 ACRES, MORE OR LESS.

(3) BOARD; MEMBERS AND MEETINGS; ORGANIZATION; POWERS;
DUTIES; TERMS OF OFFICE; RELATED ELECTION REQUIREMENTS.--

(a) The board shall exercise the powers granted to the
district pursuant to this act in order to implement its
specialized single purpose.

(b) There is created the Board of Supervisors of the Grove
Community District, which is the governing board and body of the
district. Except as otherwise provided herein, each member shall
hold office for a term of 4 years and until his or her successor
is chosen and qualifies. There shall be five members of the
board who shall, in order to be eligible, be residents of the
state and citizens of the United States. Three members shall
constitute a quorum.

(c) Within 45 days after the effective date of this act, a
specially noticed meeting of the landowners of the district
shall be held for the purpose of electing the members to the
first board as herein provided. Notice of such special meeting
of the landowners shall be given by causing publication thereof
to be made once a week for 2 consecutive weeks prior to such
meeting in a newspaper of general paid subscription and
circulation in Okeechobee County, the last day of such
publication not to be fewer than 14 or more than 28 days before
the day of the election. Such special meeting of the landowners
shall be held in a public place in Okeechobee County, and the
place, date, and hour of holding such meeting and the purpose

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1043 thereof shall be stated expressly in the notice. The landowners,
 1044 when assembled, shall organize by electing a chair who shall
 1045 preside at the meeting of the landowners and a secretary who
 1046 shall record the proceedings. At such meeting, for the election
 1047 of each person to be elected, each and every acre of land, or
 1048 any fraction thereof, within the boundary of the district shall
 1049 represent one vote and each owner of that acre or fraction
 1050 thereof shall be entitled to one vote for every such acre or
 1051 fraction thereof. Persons who qualify to serve as board members
 1052 shall be nominated at the noticed meeting and prior to the
 1053 initial election at the noticed meeting. A landowner may vote in
 1054 person or by proxy in writing. A landowner who sells land to a
 1055 bona fide purchaser may by written lawful instrument retain the
 1056 voting rights for that acreage.

1057 (d) At the landowners' meeting for the election of the
 1058 members of the board on a one-acre, one-vote basis, the two
 1059 candidates receiving the highest number of votes shall be
 1060 elected for terms expiring November 30, 2008, and the three
 1061 candidates receiving the next highest number of votes shall be
 1062 elected for terms expiring November 30, 2010. The members of the
 1063 first board elected by the landowners shall serve their
 1064 respective 4-year or 2-year terms; however, the next election by
 1065 the landowners shall be held on the first Tuesday in November
 1066 2008 to elect members to fill those vacancies to 4-year terms.
 1067 Thereafter, there shall be an election of supervisors for the
 1068 district every 2 years in November on a date established by the
 1069 board and noticed pursuant to paragraph (c).

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(e) The landowners present at the meeting shall constitute a quorum.

(f) All vacancies or expirations on the board shall be filled as provided by this act.

(g) In case of a vacancy in the office of any member of the board, the remaining members of the board shall by majority vote elect a person to serve as a member of the board for the unexpired portion of the term.

(h) If the board proposes to exercise its limited ad valorem taxing power as provided elsewhere in this charter, the provisions of section 4(14)(a) shall apply.

(4) ELECTION; POPULAR ELECTIONS, REFERENDUM; DESIGNATION OF URBAN AREAS.--

(a) Elections of the members of the board shall be conducted on a one-acre, one-vote basis as provided in paragraph (3)(c), until and unless the provisions of paragraph (b) apply. When applicable and required, the appropriate provisions of section 189.405, Florida Statutes, apply.

(b) A referendum shall be called by the board, each member elected on a one-acre, one-vote basis, on the question of whether certain members of the board should be elected by qualified electors, providing each of the following conditions has been satisfied at least 60 days prior to the general or special election at which the referendum is to be held:

1. The district has at least 500 qualified electors based on the most recent state population estimate.

2. A petition signed by 10 percent of the qualified electors of the district has been filed with the board. The

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1098 petition shall be submitted to the Supervisor of Elections of
1099 Okeechobee County who shall, within 30 days after receipt of the
1100 petition, certify to the board the percentage of signatures of
1101 qualified electors contained in the petition.

1102 (c) Upon verification by the supervisor of elections that
1103 10 percent of the qualified electors of the district have
1104 petitioned the board, a referendum election shall be called by
1105 the board at the next regularly scheduled election of governing
1106 board members occurring at least 60 days after verification.

1107 (d) If the qualified electors approve the election
1108 procedure described in this section, the governing board of the
1109 district shall remain five members and elections shall be held
1110 pursuant to the criteria described in this paragraph, beginning
1111 with the next regularly scheduled election of governing board
1112 members or at a special election called within 6 months after
1113 the referendum and final unappealed approval of district urban
1114 area maps as provided in this section, whichever is earlier.

1115 (e) If the qualified electors of the district reject the
1116 election procedure described in this section, elections of the
1117 members of the board shall continue as described in this act on
1118 a one-acre, one-vote basis. No further referendum on the
1119 question shall be held for a minimum period of 2 years after the
1120 referendum.

1121 (f) Within 30 days after approval of the election process
1122 described in this section by qualified electors of the district,
1123 the board shall direct the district staff to prepare and to
1124 present maps of the district describing the extent and location
1125 of all urban areas within the district. Such determination shall

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be based upon the criteria contained in the definition of urban area in this act.

(g) Within 60 days after approval of the election process described in this subsection by qualified electors of the district, the maps describing urban areas within the district shall be presented to the board.

(h) Any district landowner or elector may contest the accuracy of the urban area maps prepared by the staff of the district within 30 days after submission to the board. Upon notice of objection to the maps, the governing board shall request the county engineer to prepare and present maps of the district describing the extent and location of all urban areas within the district. Such determination shall be based limitedly and exclusively upon the criteria contained in the definition in this act of urban area. Within 30 days after the governing board requests, the county engineer shall present the maps to the governing board.

(i) Upon presentation of the maps by the county engineer, the governing board shall compare the maps submitted by both the district staff and the county engineer and make a determination as to which set of maps to adopt. Within 60 days after presentation of all such maps, the governing board may amend and shall adopt the official maps at a regularly scheduled board meeting.

(j) Any district landowner or qualified elector may contest the accuracy of the urban area maps adopted by the board after adoption in accordance with the provision for judicial review as provided in the Administrative Procedure Act. Accuracy

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1154 shall be determined pursuant to the definition of urban area in
1155 section 2(6)(bb).

1156 (k) Upon adoption by the board or certification by the
1157 court, the district urban area maps shall serve as the official
1158 maps for determination of the extent of urban area within the
1159 district and the number of members of the board to be elected by
1160 qualified electors and by one-acre, one-vote at the next
1161 regularly scheduled election of governing board members.

1162 (l) Upon a determination of the percentage of urban area
1163 within the district as compared with total area within the
1164 district, the governing board shall determine the number of
1165 electors in accordance with the percentages pursuant to this
1166 paragraph. The landowners' meeting date shall be designated by
1167 the board.

1168 (m) The map shall be updated and readopted every 5 years
1169 or sooner at the discretion of the board.

1170 (n)1. The five members of the governing board of the
1171 district shall be elected in accordance with the following
1172 determinations of urban area:

1173 a. If urban areas constitute 25 percent or less of the
1174 district, one governing board member shall be elected by the
1175 qualified electors and four governing board members shall be
1176 elected in accordance with the one-acre, one-vote principle
1177 contained within subsection (3).

1178 b. If urban areas constitute more than 25 percent but less
1179 than 50 percent of the district, two governing board members
1180 shall be elected by the qualified electors and three governing

board members shall be elected in accordance with the one-acre, one-vote principle contained in subsection (3).

c. If urban areas constitute at least 50 percent but less than 70 percent of the district, three governing board members shall be elected by the qualified electors and two governing board members shall be elected in accordance with the one-acre, one-vote principle contained in subsection (3).

d. If urban areas constitute at least 70 percent but less than 90 percent of the district, four governing board members shall be elected by the qualified electors and one governing board member shall be elected in accordance with the one-acre, one-vote principle contained in subsection (3).

e. If urban areas constitute at least 90 percent or more of the district, all governing board members shall be elected by the qualified electors.

2. All members of the board, regardless of how elected, shall be public officers, known as supervisors, and, upon entering into office, shall take and subscribe to the oath of office as prescribed by section 876.05, Florida Statutes. All members of the board, regardless of how elected, and regardless of whether they are qualified electors themselves, shall be public officials and subject to ethics and conflict of interest laws of the state that apply to all public officers. They shall hold office for the terms for which they were elected and until their successors are chosen and qualified.

3. Any elected member of the board may be removed by the Governor for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by this

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act. Any vacancies which may occur in such office shall be filled by the Governor, as soon as practicable, unless filled by the board as provided in this act.

4. All governing board members elected by qualified electors shall be qualified electors elected at large. Candidates seeking election as qualified electors shall conduct their campaigns in accordance with the provisions of chapter 106, Florida Statutes, and shall file petitions as required in section 99.021, Florida Statutes, and take the oath therein prescribed.

5. All governing board members elected by qualified electors shall have a term of 4 years each except for governing board members elected at the first election and the first landowners' meeting following the referendum prescribed in paragraph (b). Governing board members elected at the first election and the first landowners' meeting following the referendum shall serve as follows:

a. If one governing board member is elected by the qualified electors and four are elected on a one-acre, one-vote basis, the governing board members elected by the qualified electors shall be elected for a term of 4 years each. Governing board members elected on a one-acre, one-vote basis shall be elected for terms as prescribed by subsection (3).

b. If two governing board members are elected by the qualified electors and three are elected on a one-acre, one-vote basis, the governing board members elected by the qualified electors shall be elected for a term period of 4 years each. Governing board members elected on a one-acre, one-vote basis

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shall be elected for terms of 1, 2, and 3 years, respectively,
as prescribed by subsection (3).

c. If three governing board members are elected by the
qualified electors and two are elected on a one-acre, one-vote
basis, two of the governing board members elected by the
qualified electors shall be elected for a term of 4 years and
the other governing board member elected by the electors shall
be elected for a term of 2 years. Governing board members
elected on a one-acre, one-vote basis shall be elected for
periods of 1 year and 2 years, respectively, as prescribed by
subsection (3).

d. If four governing board members are elected by the
qualified electors and one is elected on a one-acre, one-vote
basis, two of the governing board members elected by the
electors shall be elected for terms of 2 years each and the
other two for term of 4 years each. The governing board member
elected on a one-acre, one-vote basis shall be elected for a
term of 1 year as prescribed by subsection (3).

e. If five governing board members are elected by the
qualified electors, three shall be elected for terms of 4 years
each and two for terms of 2 years each.

6. If any vacancy occurs in a seat occupied by a governing
board member elected by the qualified electors, the remaining
members of the governing board shall, within 45 days after the
vacancy occurs, appoint a person who would be eligible to hold
the office for the unexpired term.

7. Each and every election by qualified electors of
members of the board pursuant to this act shall be conducted in

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the manner and at a time prescribed by law for holding general elections or prescribed by the Supervisor of Elections in and for the Okeechobee County political subdivision.

8.a. An annual landowners' meeting shall be held pursuant to subsection (3) and at least one governing board member shall be elected on a one-acre, one-vote basis pursuant to subsection (3) for so long as 10 percent or more of the district is not contained in an urban area. In the event all district governing board members are elected by qualified electors, there shall be no further landowners' meetings.

b. At any landowners' meeting called pursuant to this section, 50 percent of the district acreage shall not be required to constitute a quorum and each governing board member shall be elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting.

c. All landowners' meetings of districts operating pursuant to this section shall be set by the board within the month preceding the month of the election of the governing board members by the electors.

d. Vacancies on the board shall be filled pursuant to subsection (3) and this subsection except as otherwise provided in this section.

9. Three board members shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other related purposes. Action taken by the board members present shall be upon a vote of the majority of the members present, unless general law or rule of the district subsequently promulgated requires a greater number.

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1293 10. As soon as practicable after each election or
1294 appointment, the board shall elect one of its members as chair,
1295 elect a secretary who need not be a member of the board, and
1296 elect such other officers as the board may deem necessary.

1297 11. The board shall keep a permanent record book entitled
1298 "Record of Proceedings of Grove Community District," in which
1299 shall be recorded minutes of all meetings, resolutions,
1300 proceedings, certificates, bonds given by all employees, and any
1301 and all corporate acts. The record book shall at reasonable
1302 times be opened to inspection in the same manner as state,
1303 county, and municipal records pursuant to chapter 119, Florida
1304 Statutes. The record book shall be kept at the office or other
1305 regular place of business maintained by the board within
1306 Okeechobee County.

1307 12. Each supervisor shall be entitled to receive for his
1308 or her services an amount not to exceed \$200 per meeting of the
1309 board, not to exceed \$4,800 per year per supervisor, or an
1310 amount established by the electors at referendum. In addition,
1311 each supervisor shall receive travel and per diem expenses as
1312 set forth in section 112.061, Florida Statutes.

1313 13. All meetings of the board shall be open to the public
1314 and governed by the provisions of chapter 286, Florida Statutes.

1315 (o) The members of the board, whether elected on a one-
1316 acre, one-vote basis or a qualified-electors basis, shall
1317 constitute the members of the governing board of the district
1318 subject to the requirements of this act.

1319 (5) BOARD OF SUPERVISORS; GENERAL DUTIES.--

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1320 (a) The board shall employ and fix the compensation of a
 1321 district manager. The district manager shall have charge and
 1322 supervision of the works of the district and shall be
 1323 responsible for preserving and maintaining any improvement or
 1324 facility constructed or erected pursuant to the provisions of
 1325 this act, for maintaining and operating the equipment owned by
 1326 the district, and for performing such other duties as may be
 1327 prescribed by the board. It shall not be a conflict of interest
 1328 under chapter 112, Florida Statutes, for a board member or the
 1329 district manager or another employee of the district to be a
 1330 stockholder, officer, or employee of a landowner. The district
 1331 manager may hire or otherwise employ and terminate the
 1332 employment of such other persons, including, without limitation,
 1333 professional, supervisory, and clerical employees, as may be
 1334 necessary and authorized by the board. The compensation and
 1335 other conditions of employment of the officers and employees of
 1336 the district shall be as provided by the board.

1337 (b) The board shall designate a person who is a resident
 1338 of the state as treasurer of the district, who shall have charge
 1339 of the funds of the district. Such funds shall be disbursed only
 1340 upon the order, or pursuant to the resolution, of the board by
 1341 warrant or check countersigned by the treasurer and by such
 1342 other person as may be authorized by the board. The board may
 1343 give the treasurer such other or additional powers and duties as
 1344 the board may deem appropriate and may fix his or her
 1345 compensation. The board may require the treasurer to give a bond
 1346 in such amount, on such terms, and with such sureties as may be
 1347 deemed satisfactory to the board to secure the performance by

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1348 the treasurer of his or her powers and duties. The financial
1349 records of the board shall be audited by an independent
1350 certified public accountant at least once a year.

1351 (c) The board is authorized to select as a depository for
1352 its funds any qualified public depository as defined in section
1353 280.02, Florida Statutes, which meets all the requirements of
1354 chapter 280, Florida Statutes, and has been designated by the
1355 treasurer as a qualified public depository, upon such terms and
1356 conditions as to the payment of interest by such depository upon
1357 the funds so deposited as the board may deem just and
1358 reasonable.

1359 (6) BUDGET; REPORTS AND REVIEWS.--

1360 (a) The district shall provide financial reports in such
1361 form and such manner as prescribed pursuant to this act and
1362 chapter 218, Florida Statutes.

1363 (b) On or before each July 15, the district manager shall
1364 prepare a proposed budget for the ensuing fiscal year to be
1365 submitted to the board for board approval. The proposed budget
1366 shall include at the direction of the board an estimate of all
1367 necessary expenditures of the district for the ensuing fiscal
1368 year and an estimate of income to the district from the taxes
1369 and assessments provided in this act. The board shall consider
1370 the proposed budget item by item and may either approve the
1371 budget as proposed by the district manager or modify the same in
1372 part or in whole. The board shall indicate its approval of the
1373 budget by resolution, which resolution shall provide for a
1374 hearing on the budget as approved. Notice of the hearing on the
1375 budget shall be published in a newspaper of general circulation

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in the area of the district once a week for 2 consecutive weeks,
except that the first publication shall be not fewer than 15
days prior to the date of the hearing. The notice shall further
contain a designation of the day, time, and place of the public
hearing. At the time and place designated in the notice, the
board shall hear all objections to the budget as proposed and
may make such changes as the board deems necessary. At the
conclusion of the budget hearing, the board shall, by
resolution, adopt the budget as finally approved by the board.
The budget shall be adopted prior to October 1 of each year.

(c) At least 60 days prior to adoption, the board shall
submit to the Okeechobee County Board of County Commissioners,
for purposes of disclosure and information only, the proposed
annual budget for the ensuing fiscal year, and the board of
county commissioners may submit written comments to the board
solely for the assistance and information of the board of the
district in adopting its annual district budget.

(d) The board shall submit annually, to the Board of
County Commissioners of Okeechobee County, its district public
facilities report under section 189.415(2), Florida Statutes,
addressing specifically short-term and long-term innovative
systems, facilities, and services consistent with the unique
nature of the new community. The Board of County Commissioners
of Okeechobee County shall use and rely on the district public
facilities report in the preparation or revision of the
Okeechobee County Comprehensive Plan specifically under section
189.415(6), Florida Statutes.

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1403 (7) DISCLOSURE OF PUBLIC FINANCING.--The district shall
 1404 take affirmative steps to provide for the full disclosure of
 1405 information relating to the public financing and maintenance of
 1406 improvements to real property undertaken by the district. Such
 1407 information shall be made available to all current residents,
 1408 and to all prospective residents, of the district. The district
 1409 shall furnish each developer of a residential development within
 1410 the district with sufficient copies of that information to
 1411 provide each prospective initial purchaser of property in that
 1412 development with a copy, and any developer of a residential
 1413 development within the district, when required by law to provide
 1414 a public offering statement, shall include a copy of such
 1415 information relating to the public financing and maintenance of
 1416 improvements in the public offering statement. The Division of
 1417 Florida Land Sales, Condominiums, and Mobile Homes of the
 1418 Department of Business and Professional Regulation shall ensure
 1419 that disclosures are made by developers pursuant to chapter 498,
 1420 Florida Statutes.

1421 (8) GENERAL POWERS.--The district shall have, and the
 1422 board may exercise, the following general powers:

1423 (a) To sue and be sued in the name of the district; to
 1424 adopt and use a seal and authorize the use of a facsimile
 1425 thereof; to acquire by purchase, gift, devise, or otherwise, and
 1426 to dispose of, real and personal property or any estate therein;
 1427 and to make and execute contracts and other instruments
 1428 necessary or convenient to the exercise of its powers.

1429 (b) To apply for coverage of its employees under the state
 1430 retirement system in the same manner as if such employees were

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state employees, subject to necessary action by the district to pay employer contributions into the state retirement fund.

(c) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to public bidding or competitive negotiation requirements as set forth in section 4(21).

(d) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(e) To adopt rules and orders pursuant to the provisions of chapter 120, Florida Statutes, prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the district. The board may also adopt administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business.

(f) To maintain an office at such place or places as the board designates in Okeechobee County and within the district when facilities are available.

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1459 (g) To hold, control, and acquire by donation, purchase,
1460 or condemnation, and to dispose of, any public easements,
1461 dedications to public use, platted reservations for public
1462 purposes, or any reservations for those purposes authorized by
1463 this act other than public easements conveyed to or accepted by
1464 Okeechobee County and to make use of such easements,
1465 dedications, or reservations for the purpose mandated by this
1466 act.

1467 (h) To lease as lessor or lessee to or from any person,
1468 firm, corporation, association, or body, public or private, any
1469 projects of the type that the district is authorized to
1470 undertake and facilities or property of any nature for the use
1471 of the district to carry out the purposes mandated by this act.

1472 (i) To borrow money and issue bonds, certificates,
1473 warrants, notes, or other evidences of indebtedness as
1474 hereinafter provided; to levy such tax and assessments as may be
1475 authorized; and to charge, collect, and enforce fees and other
1476 user charges subject as applicable to section 4(10)-(13).

1477 (j) To raise, by user charges or fees authorized by
1478 resolution of the board, amounts of money which are necessary
1479 for the conduct of the district activities and services and to
1480 enforce their receipt and collection in the manner prescribed by
1481 resolution not inconsistent with law.

1482 (k) To exercise within the district, or beyond the
1483 district with prior approval by majority vote of a resolution of
1484 the governing body of the county if the taking will occur in an
1485 unincorporated area, the right and power of eminent domain,
1486 pursuant to the provisions of chapters 73 and 74, Florida

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1487 Statutes, over any property within the state, except municipal,
 1488 county, state, and federal property, for the uses and purpose of
 1489 the district relating solely to water, sewer, district roads,
 1490 and water management, specifically including, without
 1491 limitation, the power for the taking of easements for the
 1492 drainage of the land of one person over and through the land of
 1493 another.

1494 (l) To cooperate with, or contract with, other
 1495 governmental agencies as may be necessary, convenient,
 1496 incidental, or proper in connection with any of the powers,
 1497 duties, or purposes authorized by this act.

1498 (m) To assess and impose upon lands in the district ad
 1499 valorem taxes as provided and limited by this act.

1500 (n) If and when authorized by general law, to determine,
 1501 order, levy, impose, collect, and enforce maintenance taxes.

1502 (o) To determine, order, levy, impose, collect, and
 1503 enforce assessments pursuant to this act, which sets forth a
 1504 detailed uniform procedure to implement chapter 170, Florida
 1505 Statutes, and as an alternative to determine, order, levy,
 1506 impose, collect, and enforce assessments under and pursuant to
 1507 chapter 170, Florida Statutes, pursuant to authority granted in
 1508 section 197.3631, Florida Statutes, or pursuant to other
 1509 provisions of general law, now or hereinafter enacted, which
 1510 provide or authorize a supplemental means to impose, levy, and
 1511 collect special assessments. Such special assessments, in the
 1512 discretion of the district, as provided in section 197.3631,
 1513 Florida Statutes, may be collected and enforced pursuant to the
 1514 provisions of sections 197.3632 and 197.3635, Florida Statutes,

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1515 and chapters 170 and 173, Florida Statutes, or as provided by
1516 this act.

1517 (p) To exercise such special powers and other express
1518 powers as may be authorized and granted by this act in the
1519 charter of the district, including powers as provided in any
1520 interlocal agreement entered into pursuant to chapter 163,
1521 Florida Statutes, or which shall be required or permitted to be
1522 undertaken by the district pursuant to any development order or
1523 development of regional impact, including any interlocal service
1524 agreement with Okeechobee County for fair-share capital
1525 construction funding for any capital facilities or systems
1526 required of the developer pursuant to any applicable development
1527 order or agreement.

1528 (q) To exercise all of the powers necessary, convenient,
1529 incidental, or proper in connection with any other powers or
1530 duties or the single purpose of the district authorized by this
1531 act.

1532
1533 The provisions of this subsection shall be construed liberally
1534 in order to carry out effectively the single specialized purpose
1535 of this act and to secure for the district its ability to be
1536 innovative.

1537 (9) SPECIAL POWERS.--The district shall have the following
1538 special powers to implement its lawful, single, and special
1539 purpose and to provide pursuant to that purpose basic systems,
1540 facilities, services, improvements, projects, works, and
1541 infrastructure in the new community, each of which constitutes a
1542 lawful public purpose when exercised pursuant to this charter,

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subject to, and not inconsistent with, the regulatory
jurisdiction and permitting authority of all other applicable
governmental bodies, agencies, and any special districts having
authority with respect to any area included therein, and to
plan, establish, acquire, construct or reconstruct, enlarge or
extend, equip, operate, finance, fund, and maintain
improvements, systems, facilities, services, works, projects,
and infrastructure any or all of the following special powers
granted by this act in order to implement the special
requirements of this new community within the single special
purpose of the district:

(a) To provide for water management and control for the
lands within the district and to connect some or any of such
facilities with roads and bridges. In the event that the board
assumes the responsibility for providing water management and
control for the district which is to be financed by benefit
special assessments, the board shall adapt plans and assessments
pursuant to law or may adopt water management and control plans,
assess for benefits, and apportion and levy special assessments
as follows:

1. The board shall cause to be made by the district's
engineer, or such other engineer or engineers as the board may
employ for that purpose, complete and comprehensive water
management and control plans for the lands located within the
district that will be improved in part or in whole by any system
of facilities that may be outlined and adopted, and the engineer
shall make a report in writing to the board with maps and

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profiles of said surveys and an estimate of the cost of carrying out and completing the plans.

2. Upon the completion of such plans, the board shall hold a hearing thereon to hear objections thereto, shall give notice of the time and place fixed for such hearing by publication once each week for 2 consecutive weeks in a newspaper of general circulation in the general area of the district, and shall permit the inspection of the plan at the office of the district by all persons interested. All objections to the plan shall be filed at or before the time fixed in the notice for the hearing and shall be in writing.

3. After the hearing, the board shall consider the proposed plan and any objections thereto and may modify, reject, or adopt the plan or continue the hearing to a day certain for further consideration of the proposed plan or modifications thereof.

4. When the board approves a plan, a resolution shall be adopted and a certified copy thereof shall be filed in the office of the secretary and incorporated by him or her into the records of the district.

5. The water management and control plan may be altered in detail from time to time until the appraisal record herein provided is filed, but not in such manner as to affect materially the conditions of its adoption. After the appraisal record has been filed, no alteration of the plan shall be made, except as provided by this act.

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6. Within 20 days after the final adoption of the plan by the board, the board shall proceed pursuant to section 298.301, Florida Statutes.

(b) To provide for water supply, sewer, and wastewater management, reclamation, and reuse or any combination thereof and any irrigation systems, facilities, and services; to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or way; and to dispose of any effluent, residue, or other byproducts of such system or sewer system.

1. The district may not purchase or sell a water, sewer, or wastewater reuse utility that provides service to the public for compensation, or enter into a wastewater facility privatization contract for a wastewater facility, until the governing body of the new community district has held a public hearing on the purchase, sale, or wastewater facility privatization contract and made a determination that the purchase, sale, or wastewater facility privatization contract is in the public interest.

2. In determining if the purchase, sale, or wastewater facility privatization contract is in the public interest, the district shall consider, at a minimum, the following:

a. The most recent available income and expense statement for the utility.

b. The most recent available balance sheet for the utility, listing assets and liabilities and clearly showing the

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1623 amount of contributions in aid of construction and the
1624 accumulated depreciation thereon.

1625 c. A statement of the existing rate base of the utility
1626 for regulatory purposes.

1627 d. The physical condition of the utility facilities being
1628 purchased, sold, or subject to a wastewater facility
1629 privatization contract.

1630 e. The reasonableness of the purchase, sale, or wastewater
1631 facility privatization contract price and terms.

1632 f. The impacts of the purchase, sale, or wastewater
1633 facility privatization contract on utility customers, both
1634 positive and negative.

1635 g. Any additional investment required and the ability and
1636 willingness of the purchaser or the private firm under a
1637 wastewater facility privatization contract to make that
1638 investment, whether the purchaser is the district or the entity
1639 purchasing the utility from the district.

1640 h. In the case of a wastewater facility privatization
1641 contract, the terms and conditions on which the private firm
1642 will provide capital investment and financing or a combination
1643 thereof for contemplated capital replacements, additions,
1644 expansions, and repairs. The district shall give significant
1645 weight to this criterion.

1646 i. The alternatives to the purchase, sale, or wastewater
1647 facility privatization contract and the potential impact on
1648 utility customers if the purchase, sale, or wastewater facility
1649 privatization contract is not made.

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j. The ability of the purchaser or the private firm under a wastewater facility privatization contract to provide and maintain high-quality and cost-effective utility service, whether the purchaser is the district or the entity purchasing the utility from the district.

k. In the case of a wastewater facility privatization contract, the technical expertise and experience of the private firm in carrying out the obligations specified in the wastewater facility privatization contract. The district shall give significant weight to this criterion.

3. All moneys paid by a private firm to a district pursuant to a wastewater facility privatization contract shall be used for the purpose of reducing or offsetting property taxes, wastewater service rates, or debt reduction or making infrastructure improvements or capital asset expenditures or other public purpose; however, nothing herein shall preclude the district from using all or part of the moneys for the purpose of the district's qualification for relief from the repayment of federal grant awards associated with the wastewater system as may be required by federal law or regulation. The district shall prepare a statement showing that the purchase, sale, or wastewater facility privatization contract is in the public interest, including a summary of the purchaser's or private firm's experience in water, sewer, or wastewater reuse utility operation and a showing of financial ability to provide the service, whether the purchaser or private firm is the district or the entity purchasing the utility from the district.

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1677 (c) To provide for bridges or culverts that may be needed
 1678 across any drain, ditch, canal, floodway, holding basin,
 1679 excavation, public highway, tract, grade, fill, or cut and
 1680 roadways over levees and embankments, and to construct any and
 1681 all of such works and improvements across, through, or over any
 1682 public right-of-way, highway, grade, fill, or cut.

1683 (d) To provide for district roads equal to or exceeding
 1684 the specifications of the county in which such district roads
 1685 are located, and streetlights, including conditions of
 1686 development approval which sometimes may be different
 1687 specifications than the normal specifications of the county.
 1688 This special power includes construction, improvement, pavement,
 1689 and maintenance of roadways and roads necessary and convenient
 1690 for the exercise of the powers or duties of the district to:

1691 1. Implement its single purpose.
 1692 2. Include as a component thereof roads, parkways,
 1693 bridges, landscaping, irrigation, bicycle and jogging paths,
 1694 street lighting, traffic signals, road striping, and all other
 1695 customary elements of a modern road system in general or as tied
 1696 to the conditions of development approval for the specific
 1697 district.

1698 3. Plan, implement, construct or reconstruct, enlarge or
 1699 extend, finance, fund, equip, operate, and maintain parking
 1700 facilities freestanding or as may be related to any innovative
 1701 strategic intermodal system of transportation pursuant to
 1702 applicable federal, state, and local laws and ordinances.

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1703 (e) To provide for buses, trolleys, transit shelters,
1704 ride-sharing facilities and services, parking improvements, and
1705 related signage.

1706 (f) To cover investigation and remediation costs
1707 associated with the cleanup of actual or perceived environmental
1708 contamination within the district under the supervision or
1709 direction of a competent governmental authority unless the
1710 covered costs benefit any person who is a landowner within the
1711 district who caused or contributed to the contamination.

1712 (g) To provide for conservation areas, mitigation areas,
1713 and wildlife habitat, including the maintenance of any plant or
1714 animal species, and any related interest in real or personal
1715 property.

1716 (h) Using its general and special powers as set forth in
1717 this act, to provide for any other project within or without the
1718 boundaries of a district when the project is the subject of an
1719 agreement between the district and the Board of County
1720 Commissioners of Okeechobee County or with any applicable other
1721 public or private entity, including a homeowner association, and
1722 is not inconsistent with the Okeechobee County Comprehensive
1723 Plan and the Growth Management act which implement the single
1724 special purpose of the district.

1725 (i) To provide for parks and facilities for indoor and
1726 outdoor recreational, cultural, and educational uses.

1727 (j) To provide for fire prevention and control, including
1728 fire stations and buildings, water mains and plugs, fire trucks,
1729 and other vehicles and equipment, and for emergency medical

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1730 services, including stations and buildings, vehicles, and
1731 equipment.

1732 (k) To provide for school buildings and related
1733 structures, which may be leased, sold, or donated to the school
1734 district, for use in the educational system when authorized by
1735 the district school board. The district is granted the special
1736 power to contract with the Okeechobee County School Board and,
1737 as applicable, the Board of County Commissioners of Okeechobee
1738 County, and with the applicable landowner developer of the lands
1739 within the jurisdiction of the district, to assess the school
1740 district educational facilities plan, and to implement a
1741 management and financing plan for timely construction,
1742 maintenance, and acquisition, at the option of the district, of
1743 school facilities, including facilities identified in the
1744 facilities work programs or those proposed by charter schools.
1745 The district is granted the special power to determine, order,
1746 levy, impose, collect, or arrange for the collection and
1747 enforcement of assessments, as defined in and pursuant to this
1748 act, for such school facilities. The district is eligible for
1749 the financial enhancements available to educational facility
1750 benefit districts to provide for financing the construction and
1751 maintenance of educational facilities pursuant to section
1752 1013.356, Florida Statutes, and, if and when authorized by
1753 general law, to acquire such educational facilities. This act,
1754 in the place of an educational facilities benefit district,
1755 authorizes the Okeechobee County School Board to designate the
1756 district. The district is authorized to enter into an interlocal
1757 agreement with the Okeechobee County School Board and, as

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1758 applicable, the Board of County Commissioners of Okeechobee
 1759 County, and applicable private landowners and developers in
 1760 order to provide for such construction, maintenance, and
 1761 acquisition and in order to receive the applicable financial
 1762 enhancements provided by section 1013.356, Florida Statutes. The
 1763 interlocal agreement shall consider, among other things,
 1764 absorption rates, sales rates, and related data of existing and
 1765 projected schools; racial, ethnic, social, and economic balance
 1766 within the Okeechobee County School District under applicable
 1767 state and federal law; and the provision of school attendance
 1768 zones to allow students residing within a reasonable distance of
 1769 the facilities constructed and financed through the interlocal
 1770 agreement to attend such facilities. Because these facilities
 1771 are funded by assessments and not by taxes of any type, the
 1772 provision of these facilities may be multiuse and, consistent
 1773 with the provisions of this act, shall be first liens on the
 1774 property upon a showing of special and peculiar benefits that
 1775 flow to the property within the jurisdiction of the district as
 1776 a logical connection from the systems, facilities, and services,
 1777 resulting in added use, enhanced enjoyment, decreased insurance
 1778 premiums, or enhanced value in marketability so that the
 1779 Legislature finds that the provisions of the Florida
 1780 Constitution for free public schools is implemented and
 1781 enhanced.

1782 (1) To provide for security, including, but not limited
 1783 to, guardhouses, fences and gates, electronic intrusion
 1784 detection systems, and patrol cars, when authorized by proper
 1785 governmental agencies, except that the district may not exercise

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1786 any powers of a law enforcement agency but may contract with the
1787 appropriate local general-purpose government agencies for an
1788 increased level of such services within the district boundaries.
1789 Notwithstanding any provision of general law, the district may
1790 operate guardhouses for the limited purpose of providing
1791 security for the residents of the district and which serve a
1792 predominate public, as opposed to private, purpose. Such
1793 guardhouses shall be operated by the district or other unit of
1794 local government pursuant to procedures designed to serve such
1795 security purposes as set forth in rules adopted by the board,
1796 from time to time, following the procedures set forth in chapter
1797 120, Florida Statutes.

1798 (m) To provide for control and elimination of mosquitoes
1799 and other arthropods of public health importance.

1800 (n) To provide for waste collection and disposal.

1801 (o) To enter into impact fee credit agreements with
1802 Okeechobee County and the Okeechobee County School Board. Under
1803 such agreements, where the district constructs or makes
1804 contributions for public systems, facilities, services,
1805 projects, improvements, works, and infrastructures for which
1806 impact fee credits would be available to the landowner developer
1807 under the Okeechobee County and Okeechobee County School Board
1808 applicable impact fee ordinance, the agreement authorized by
1809 this act shall provide that such impact fee credit shall inure
1810 to the landowners within the district in portion to assessments
1811 or other burdens levied and imposed upon the landowners with
1812 respect to assessable improvements giving rise to such impact
1813 fee credits, and the district shall, from time to time, execute

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1814 such instruments, such as assignments of impact fee credits, as
1815 may be necessary, appropriate, or desirable to accomplish or to
1816 confirm the foregoing.

1817 (p) To establish and create, at noticed meetings, such
1818 government departments of the board of the district, as well as
1819 committees, task forces, boards, commissions, or other agencies
1820 under the supervision and control of the district, as from time
1821 to time the members of the board may deem necessary or desirable
1822 in the performance of the acts or other things necessary to
1823 exercise its general or special powers to implement an
1824 innovative project to carry out the special purpose of the
1825 district as provided in this act and to delegate to such
1826 departments, boards, task forces, committees, or other agencies
1827 such administrative duties and other powers as the board may
1828 deem necessary or desirable, but only if there is a set of
1829 expressed limitations for accountability, notice, and periodic
1830 written reporting to the board, which shall retain its powers.

1831 (q) So long as not inconsistent with the applicable local
1832 government comprehensive plan and development entitlements, to
1833 coordinate with the landowner developer on the phasing of the
1834 delivery of infrastructure and to create phase entities or units
1835 for its charter purpose. Toward this end, and so long as it
1836 implements the purpose of the district under this act, the board
1837 may designate, therefore, units of development and adopt systems
1838 of progressive phased development by units with related
1839 management planning, implementation, construction, maintenance,
1840 and financing within its phased unit. If the board proceeds to
1841 designate such phased units of development, it must adopt at a

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noticed meeting pursuant to chapter 120, Florida Statutes, a rule setting forth detailed procedures and authorizations for such phase unit processes. A committee, department, or agency of the board shall be given express duty of oversight with monthly written reports to the board. No such phased units can begin or operate until or unless the required noticed rule has been promulgated. With regard to any phased unit, there shall be no bonded indebtedness and no levy of any lienable or nonlienable revenue, whether to amortize bonds or not, within the boundary of a phased unit other than by the board and pursuant to the powers, procedures, and provisions of this act and other applicable laws.

(r) To plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, maintain, finance, and fund buildings and structures for district offices, maintenance facilities, meeting facilities, town centers, or any other project authorized or granted by this act upon a showing at a noticed meeting of its efficacy to the specialized single purpose of this district for the new community.

(s) To plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, maintain, finance, and fund edifices and facilities for the provision of health care when authorized by applicable public or private agencies providing health care and upon a showing of efficacy to carry out the purpose of the district.

(t) To coordinate, work with, and, as the board deems appropriate, enter into interlocal agreements subject to the provisions of this charter with any public or private

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1870 institution of higher education, including the Indian River
1871 Community College and any public or private university. The
1872 purpose of such coordination and agreements is to help sustain
1873 high-quality infrastructure in, around, and for the universities
1874 as may be appropriate under the law on the basis that the
1875 provision of such systems, facilities, and services, including
1876 classrooms or other buildings for such institutions, constitutes
1877 enhancement of the intrinsic value and marketability of property
1878 within the new community and also provides for increased
1879 enjoyment and enhanced use of the property. These systems,
1880 facilities, and services, including buildings, shall be first
1881 liens on the property within the community and serve a lawful
1882 public purpose upon a showing by the board in a nonarbitrary and
1883 informed manner of special and peculiar benefits that flow to
1884 the property within the community as a logical connection from
1885 the systems, facilities, and services, resulting in added use,
1886 enhanced enjoyment, decreased insurance premiums on, or enhanced
1887 value in the marketability of the property.

1888 (u) To adopt and enforce appropriate rules following the
1889 procedures of chapter 120, Florida Statutes, in connection with
1890 the provisions of one or more its systems, facilities, services,
1891 projects, improvements, works, and infrastructure.

1892
1893 The enumeration of special powers in this subsection shall not
1894 be deemed exclusive or restrictive but shall be deemed to
1895 incorporate all powers, express or implied, necessary or
1896 incident to carrying out such enumerated special powers,
1897 including also the general powers provided by this special act

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1898 charter to the district to implement its single purpose. The
1899 provisions of this subsection shall be construed liberally in
1900 order to carry out effectively the single purpose of this
1901 district under this act and to secure for the district its
1902 ability to be innovative.

1903 (10) ISSUANCE OF BOND ANTICIPATION NOTES.--In addition to
1904 the other powers provided for in this act, and not in limitation
1905 thereof, the district shall have the power, at any time, and
1906 from time to time after the issuance of any bonds of the
1907 district shall have been authorized, to borrow money for the
1908 purposes for which such bonds are to be issued in anticipation
1909 of the receipt of the proceeds of the sale of such bonds and to
1910 issue bond anticipation notes in a principal sum not in excess
1911 of the authorized maximum amount of such bond issue. Such notes
1912 shall be in such denomination or denominations; bear interest at
1913 such rate, not to exceed the maximum rate allowed by general
1914 law; mature at such time or times not later than 5 years from
1915 the date of issuance; and be in such form and executed in such
1916 manner as the board shall prescribe. Such notes may be sold at
1917 either public or private sale or, if such notes are renewal
1918 notes, may be exchanged for notes then outstanding on such terms
1919 as the board shall determine. Such notes shall be paid from the
1920 proceeds of such bonds when issued. The board may, in its
1921 discretion, in lieu of retiring the notes by means of bonds,
1922 retire them by means of current revenues or from any taxes or
1923 assessments levied for the payment of such bonds, but in such
1924 event, a like amount of the bonds authorized shall not be
1925 issued.

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(11) SHORT-TERM BORROWING.--The district may at any time obtain loans, in such amount and on such terms and conditions as the board may approve, for the purpose of paying any of the expenses of the district or any costs incurred or that may be incurred in connection with any of the projects of the district, which loans shall bear interest as the board determines as not to exceed the maximum rate allowed by general law and may be payable from and secured by a pledge of such funds, revenues, taxes, and assessments as the board may determine, subject, however, to the provisions contained in any proceeding under which bonds were theretofore issued and are then outstanding. For the purpose of defraying such costs and expenses, the district may issue negotiable notes, warrants, or other evidences of debt to be payable at such times and to bear such interest, not to exceed the maximum rate allowed by general law, as the board may determine and to be sold or discounted at such price or prices not less than 95 percent of par value and on such terms as the board may deem advisable. The board shall have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes, and assessments of the district. The approval of the electors residing in the district shall not be necessary except when required by the State Constitution.

(12) BONDS.--

(a) Bonds may be sold in blocks or installments at different times, or an entire issue or series may be sold at one time. Bonds may be sold at public or private sale after such advertisement, if any, as the board may deem advisable, but not

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1954 in any event at less than 90 percent of the par value thereof,
1955 together with accrued interest thereon. Bonds may be sold or
1956 exchanged for refunding bonds. Special assessment and revenue
1957 bonds may be delivered by the district as payment of the
1958 purchase price of any project or part thereof, or a combination
1959 of projects or parts thereof, or as the purchase price or
1960 exchange for any property, real, personal, or mixed, including
1961 franchises or services rendered by any contractor, engineer, or
1962 other person, all at one time or in blocks from time to time, in
1963 such manner and upon such terms as the board in its discretion
1964 shall determine. The price or prices for any bonds sold,
1965 exchanged, or delivered may be:

1966 1. The money paid for the bonds.

1967 2. The principal amount, plus accrued interest to the date
1968 of redemption or exchange, or outstanding obligations exchanged
1969 for refunding bonds.

1970 3. In the case of special assessment or revenue bonds, the
1971 amount of any indebtedness to contractors or other persons paid
1972 with such bonds, or the fair value of any properties exchanged
1973 for the bonds, as determined by the board.

1974 (b) Any general obligation bonds, special assessment
1975 bonds, or revenue bonds may be authorized by resolution or
1976 resolutions of the board, which shall be adopted by a majority
1977 of all the members thereof then in office. Such resolution or
1978 resolutions may be adopted at the same meeting at which they are
1979 introduced and need not be published or posted. The board may,
1980 by resolution, authorize the issuance of bonds and fix the
1981 aggregate amount of bonds to be issued; the purpose or purposes

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1982 for which the moneys derived therefrom shall be expended,
 1983 including, but not limited to, payment of costs as defined in
 1984 section 2(6)(h); the rate or rates of interest, not to exceed
 1985 the maximum rate allowed by general law; the denomination of the
 1986 bonds; whether or not the bonds are to be issued in one or more
 1987 series; the date or dates of maturity, which shall not exceed 40
 1988 years from their respective dates of issuance; the medium of
 1989 payment; the place or places within or without the state where
 1990 payment shall be made; registration privileges; redemption terms
 1991 and privileges, whether with or without premium; the manner of
 1992 execution; the form of the bonds, including any interest coupons
 1993 to be attached thereto; the manner of execution of bonds and
 1994 coupons; and any and all other terms, covenants, and conditions
 1995 thereof and the establishment of revenue or other funds. Such
 1996 authorizing resolution or resolutions may further provide for
 1997 the contracts authorized by section 159.825(1)(f) and (g),
 1998 Florida Statutes, regardless of the tax treatment of such bonds
 1999 being authorized, subject to the finding by the board of a net
 2000 savings to the district resulting by reason thereof. Such
 2001 authorizing resolution may further provide that such bonds may
 2002 be executed in accordance with the Registered Public Obligations
 2003 Act, except that bonds not issued in registered form shall be
 2004 valid if manually countersigned by an officer designated by
 2005 appropriate resolution of the board. The seal of the district
 2006 may be affixed, lithographed, engraved, or otherwise reproduced
 2007 in facsimile on such bonds. In case any officer whose signature
 2008 appears on any bonds or coupons ceases to be such officer before
 2009 the delivery of such bonds, such signature or facsimile shall

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nevertheless be valid and sufficient for all purposes as if he or she had remained in office until such delivery.

(c) Pending the preparation of definitive bonds, the board may issue interim certificates or receipts or temporary bonds, in such form and with such provisions as the board may determine, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds which become mutilated, lost, or destroyed.

(d) Any bond issued under this act or any temporary bond, in the absence of an express recital on the face thereof that it is nonnegotiable, shall be fully negotiable and shall be and constitute a negotiable instrument within the meaning and for all purposes of the law merchant and the laws of the state.

(e) The board may make such provision with respect to the defeasance of the right, title, and interest of the holders of any of the bonds and obligations of the district in any revenues, funds, or other properties by which such bonds are secured as the board deems appropriate and, without limitation on the foregoing, may provide that when such bonds or obligations become due and payable or are called for redemption and the whole amount of the principal and interest and premium, if any, due and payable upon the bonds or obligations then outstanding is held in trust for such purpose and provision is also made for paying all other sums payable in connection with such bonds or other obligations, then the right, title, and interest of the holders of the bonds in any revenues, funds, or other properties by which such bonds are secured shall thereupon

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cease, terminate, and become void; and the board may apply any surplus in any sinking fund established in connection with such bonds or obligations and all balances remaining in all other funds or accounts other than money held for the redemption or payment of the bonds or other obligations to any lawful purpose of the district as the board shall determine.

(f) If the proceeds of any bonds are less than the cost of completing the project in connection with which such bonds were issued, the board may authorize the issuance of additional bonds upon such terms and conditions as the board may provide in the resolution authorizing the issuance thereof, but only in compliance with the resolution or other proceedings authorizing the issuance of the original bonds.

(g) The district shall have the power to issue bonds to provide for the retirement or refunding of any bonds or obligations of the district that, at the time of such issuance, are or subsequently thereto become due and payable, or that at the time of issuance have been called or are or will be subject to call for redemption within 10 years thereafter, or the surrender of which can be procured from the holders thereof at prices satisfactory to the board. Refunding bonds may be issued at any time when, in the judgment of the board, such issuance will be advantageous to the district. No approval of the qualified electors residing in the district shall be required for the issuance of refunding bonds except in cases in which such approval is required by the State Constitution. The board may by resolution confer upon the holders of such refunding bonds all rights, powers, and remedies to which the holders

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2066 would be entitled if they continued to be the owners and had
2067 possession of the bonds for the refinancing of which such
2068 refunding bonds are issued, including, but not limited to, the
2069 preservation of the lien of such bonds on the revenues of any
2070 project or on pledged funds, without extinguishment, impairment,
2071 or diminution thereof. The provisions of this act pertaining to
2072 bonds of the district shall, unless the context otherwise
2073 requires, govern the issuance of refunding bonds, the form and
2074 other details thereof, the rights of the holders thereof, and
2075 the duties of the board with respect thereto.

2076 (h)1. The district shall have the power to issue revenue
2077 bonds from time to time without limitation as to amount. Such
2078 revenue bonds may be secured by, or payable from, the gross or
2079 net pledge of the revenues to be derived from any project or
2080 combination of projects; from the rates, fees, or other charges
2081 to be collected from the users of any project or projects; from
2082 any revenue-producing undertaking or activity of the district;
2083 from special assessments; from benefit special assessments; or
2084 from any other source or pledged security. Such bonds shall not
2085 constitute an indebtedness of the district, and the approval of
2086 the qualified electors shall not be required unless such bonds
2087 are additionally secured by the full faith and credit and taxing
2088 power of the district.

2089 2. Any two or more projects may be combined and
2090 consolidated into a single project and may be operated and
2091 maintained as a single project. The revenue bonds authorized
2092 herein may be issued to finance any one or more of such
2093 projects, regardless of whether such projects have been combined

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2094 and consolidated into a single project. If the board deems it
 2095 advisable, the proceedings authorizing such revenue bonds may
 2096 provide that the district may combine the projects then being
 2097 financed or theretofore financed with other projects to be
 2098 subsequently financed by the district and that revenue bonds to
 2099 be thereafter issued by the district shall be on parity with the
 2100 revenue bonds then being issued, all on such terms, conditions,
 2101 and limitations provided in the proceeding which authorized the
 2102 original bonds.

2103 (i)1. Subject to the limitations of this charter, the
 2104 district shall have the power from time to time to issue general
 2105 obligation bonds to finance or refinance capital projects or to
 2106 refund outstanding bonds in an aggregate principal amount of
 2107 bonds outstanding at any one time not in excess of 35 percent of
 2108 the assessed value of the taxable property within the district
 2109 as shown on the pertinent tax records at the time of the
 2110 authorization of the general obligation bonds for which the full
 2111 faith and credit of the district is pledged. Except for
 2112 refunding bonds, no general obligation bonds shall be issued
 2113 unless the bonds are issued to finance or refinance a capital
 2114 project and the issuance has been approved at an election held
 2115 in accordance with the requirements for such election as
 2116 prescribed by the State Constitution. Such elections shall be
 2117 called to be held in the district by the board of county
 2118 commissioners of the county upon the request of the board of the
 2119 district. The expenses of calling and holding an election shall
 2120 be at the expense of the district, and the district shall

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2121 reimburse the county for any expenses incurred in calling or
2122 holding such election.

2123 2. The district may pledge its full faith and credit for
2124 the payment of the principal and interest on such general
2125 obligation bonds and for any reserve funds provided therefor and
2126 may unconditionally and irrevocably pledge itself to levy ad
2127 valorem taxes on all taxable property in the district, to the
2128 extent necessary for the payment thereof, without limitations as
2129 to rate or amount.

2130 3. If the board determines to issue general obligation
2131 bonds for more than one capital project, the approval of the
2132 issuance of the bonds for each and all such projects may be
2133 submitted to the electors on one and the same ballot. The
2134 failure of the electors to approve the issuance of bonds for any
2135 one or more capital projects shall not defeat the approval of
2136 bonds for any capital project which has been approved by the
2137 electors.

2138 4. In arriving at the amount of general obligation bonds
2139 permitted to be outstanding at any one time pursuant to
2140 subparagraph 1., there shall not be included any general
2141 obligation bonds which are additionally secured by the pledge
2142 of:

2143 a. Any assessments levied in an amount sufficient to pay
2144 the principal and interest on the general obligation bonds so
2145 additionally secured, which assessments have been equalized and
2146 confirmed by resolution of the board pursuant to this act or
2147 section 170.08, Florida Statutes.

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2148 b. Water revenues, sewer revenues, or water and sewer
2149 revenues of the district to be derived from user fees in an
2150 amount sufficient to pay the principal and interest on the
2151 general obligation bonds so additionally secured.

2152 c. Any combination of assessments and revenues described
2153 in subparagraphs a. and b.

2154 (j)1. Notwithstanding the provisions of any other law to
2155 the contrary, all bonds issued under the provisions of this act
2156 shall constitute legal investments for savings banks, banks,
2157 trust companies, insurance companies, executors, administrators,
2158 trustees, guardians, and other fiduciaries and for any board,
2159 body, agency, instrumentality, county, municipality, or other
2160 political subdivision of the state and shall be and constitute
2161 security which may be deposited by banks or trust companies as
2162 security for deposits of state, county, municipal, or other
2163 public funds or by insurance companies as required or voluntary
2164 statutory deposits.

2165 2. Any bonds issued by the district shall be incontestable
2166 in the hands of bona fide purchasers or holders for value and
2167 shall not be invalid because of any irregularity or defect in
2168 the proceedings for the issue and sale thereof.

2169 (k) Any resolution authorizing the issuance of bonds may
2170 contain such covenants as the board may deem advisable, and all
2171 such covenants shall constitute valid and legally binding and
2172 enforceable contracts between the district and the bondholders,
2173 regardless of the time of issuance thereof. Such covenants may
2174 include, without limitation, covenants concerning the
2175 disposition of the bond proceeds; the use and disposition of

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2176 project revenues; the pledging of revenues, taxes, and
2177 assessments; the obligations of the district with respect to the
2178 operation of the project and the maintenance of adequate project
2179 revenues; the issuance of additional bonds; the appointment,
2180 powers, and duties of trustees and receivers; the acquisition of
2181 outstanding bonds and obligations; restrictions on the
2182 establishing of competing projects or facilities; restrictions
2183 on the sale or disposal of the assets and property of the
2184 district; the priority of assessment liens; the priority of
2185 claims by bondholders on the taxing power of the district; the
2186 maintenance of deposits to ensure the payment of revenues by
2187 users of district facilities and services; the discontinuance of
2188 district services by reason of delinquent payments; acceleration
2189 upon default; the execution of necessary instruments; the
2190 procedure for amending or abrogating covenants with the
2191 bondholders; and such other covenants as may be deemed necessary
2192 or desirable for the security of the bondholders.

2193 (1) The power of the district to issue bonds under the
2194 provisions of this act may be determined, and any of the bonds
2195 of the district maturing over a period of more than 5 years
2196 shall be validated and confirmed, by court decree, under the
2197 provisions of chapter 75, Florida Statutes.

2198 (m) To the extent allowed by general law, all bonds issued
2199 hereunder and interest paid thereon and all fees, charges, and
2200 other revenues derived by the district from the projects
2201 provided by this act are exempt from all taxes by the state or
2202 by any political subdivision, agency, or instrumentality
2203 thereof; however, any interest, income, or profits on debt

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obligations issued hereunder are not exempt from the tax imposed by chapter 220, Florida Statutes. Further, the district is not exempt from the provisions of chapter 212, Florida Statutes.

(n) Bonds issued by the district shall meet the criteria set forth in section 189.4085, Florida Statutes.

(o) This act constitutes full and complete authority for the issuance of bonds and the exercise of the powers of the district provided herein. No procedures or proceedings, publications, notices, consents, approvals, orders, acts, or things by the board, or any board, officers, commission, department, agency, or instrumentality of the district, other than those required by this act, shall be required to perform anything under this act, except that the issuance or sale of bonds pursuant to the provisions of this act shall comply with the general law requirements applicable to the issuance or sale of bonds by the district. Nothing in this act shall be construed to authorize the district to utilize bond proceeds to fund the ongoing operations of the district.

(p) The state pledges to the holders of any bonds issued under this act that it will not limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy and collect the taxes, assessments, rentals, rates, fees, and other charges provided for herein or to fulfill the terms of any agreement made with the holders of such bonds or other obligations and that it will not in any way impair the rights or remedies of such holders.

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2231 (q) A default on the bonds or obligations of a district
 2232 shall not constitute a debt or obligation of the state or any
 2233 local general-purpose government or the state.

2234 (13) TRUST AGREEMENTS.--Any issue of bonds shall be
 2235 secured by a trust agreement by and between the district and a
 2236 corporate trustee or trustees, which may be any trust company or
 2237 bank having the powers of a trust company within or without the
 2238 state. The resolution authorizing the issuance of the bonds or
 2239 such trust agreement may pledge the revenues to be received from
 2240 any projects of the district and may contain such provisions for
 2241 protecting and enforcing the rights and remedies of the
 2242 bondholders as the board may approve, including, without
 2243 limitation, covenants setting forth the duties of the district
 2244 in relation to the acquisition, construction, reconstruction,
 2245 improvement, maintenance, repair, operation, and insurance of
 2246 any projects; the fixing and revising of the rates, fees, and
 2247 charges; and the custody, safeguarding, and application of all
 2248 moneys and for the employment of consulting engineers in
 2249 connection with such acquisition, construction, reconstruction,
 2250 improvement, maintenance, repair, or operation. It shall be
 2251 lawful for any bank or trust company within or without the state
 2252 which may act as a depository of the proceeds of bonds or of
 2253 revenues to furnish such indemnifying bonds or to pledge such
 2254 securities as may be required by the district. Such resolution
 2255 or trust agreement may set forth the rights and remedies of the
 2256 bondholders and of the trustee, if any, and may restrict the
 2257 individual right of action by bondholders. The board may provide
 2258 for the payment of proceeds of the sale of the bonds and the

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revenues of any project to such officer, board, or depository as it may designate for the custody thereof and may provide for the method of disbursement thereof with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as part of the cost of operation of the project to which such trust agreement pertains.

(14) AD VALOREM TAXES; ASSESSMENTS, BENEFIT SPECIAL ASSESSMENTS, MAINTENANCE SPECIAL ASSESSMENTS, AND SPECIAL ASSESSMENTS; MAINTENANCE TAXES.--

(a) A board elected by and consisting of qualified electors shall have the power to levy and assess an ad valorem tax on all the taxable property in the district to construct, operate, and maintain assessable improvements; to pay the principal of, and interest on, any general obligation bonds of the district; and to provide for any sinking or other funds established in connection with any such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, shall not exceed 3 mills. The ad valorem tax provided for herein shall be in addition to county and all other ad valorem taxes provided for by law. Such tax shall be assessed, levied, and collected in the same manner and at the same time as county taxes. The levy of ad valorem taxes shall be approved by referendum when required by the State Constitution.

(b) The board annually shall determine, order, and levy the annual installment of the total benefit special assessments for bonds issued for and expenses related to financing assessable improvements. These assessments may be due and

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2287 collected during each year that county taxes are due and
2288 collected, in which case such annual installment and levy shall
2289 be evidenced and certified to the property appraiser by the
2290 board not later than August 31 of each year. Such assessment
2291 shall be entered by the property appraiser on the county tax
2292 rolls and shall be collected and enforced by the tax collector
2293 in the same manner and at the same time as county taxes, and the
2294 proceeds thereof shall be paid to the district. However, this
2295 subsection shall not prohibit the district in its discretion
2296 from using the method prescribed in either section 197.3632,
2297 Florida Statutes, or chapter 173, Florida Statutes, for
2298 collecting and enforcing these assessments. Each annual
2299 installment of benefit special assessments shall be a lien on
2300 the property against which assessed until paid and shall be
2301 enforceable in a like manner as county taxes. The amount of the
2302 assessment for the exercise of the district's powers under
2303 subsections (8) and (9) shall be determined by the board based
2304 upon a report by the district's engineer and assessed by the
2305 board upon such lands, which may be part or all of the lands
2306 within the district benefited by the improvement, apportioned
2307 between benefited lands in proportion to the benefits received
2308 by each tract of land. The board may, if it determines it is in
2309 the best interests of the district, set forth in the proceedings
2310 initially levying such benefit special assessments or in
2311 subsequent proceedings a formula for the determination of an
2312 amount, which, when paid by a taxpayer with respect to any tax
2313 parcel, shall constitute a prepayment of all future annual
2314 installments of such benefit special assessments and the payment

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2315 of which amount with respect to such tax parcel shall relieve
 2316 and discharge such tax parcel of the lien of such benefit
 2317 special assessments and any subsequent annual installment
 2318 thereof. The board may provide further that upon delinquency in
 2319 the payment of any annual installment of benefit special
 2320 assessments, the prepayment amount of all future annual
 2321 installments of benefit special assessments as determined in
 2322 this paragraph shall be and become immediately due and payable
 2323 together with such delinquent annual installment.

2324 (c) If and when authorized by general law, to maintain and
 2325 preserve the physical facilities and services constituting the
 2326 works, improvements, or infrastructure provided by the district
 2327 pursuant to this act, and to repair and restore any one or more
 2328 of them, when needed, and for the purpose of defraying the
 2329 current expenses of the district, including any sum which may be
 2330 required to pay state and county ad valorem taxes on any lands
 2331 which may have been purchased and which are held by the district
 2332 under the provisions of this act, the board may, upon the
 2333 completion of said systems, facilities, services, works,
 2334 improvements, or infrastructure, in whole or in part, as may be
 2335 certified to the board by the engineer of the board, levy
 2336 annually a non-ad valorem and nonmillage tax upon each tract or
 2337 parcel of land within the district, to be known as a
 2338 "maintenance tax." This non-ad valorem maintenance tax shall be
 2339 apportioned upon the basis of the net assessments of benefits
 2340 assessed as accruing from the original construction and shall be
 2341 evidenced and certified to the property appraiser by the board
 2342 not later than June 1 of each year and shall be entered by the

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2343 property appraiser on the tax roll of the property appraiser, as
2344 certified by the property appraiser to the tax collector, and
2345 collected by the tax collector on the merged collection roll of
2346 the tax collector in the same manner and at the same time as
2347 county ad valorem taxes, and the proceeds therefrom shall be
2348 paid to the district. This non-ad valorem maintenance tax shall
2349 be a lien until paid on the property against which assessed and
2350 enforceable in like manner and of the same dignity as county ad
2351 valorem taxes.

2352 (d) To maintain and preserve the facilities and projects
2353 of the district, the board may levy a maintenance special
2354 assessment. This assessment may be evidenced to and certified to
2355 the property appraiser by the board not later than August 31 of
2356 each year and shall be entered by the property appraiser on the
2357 county tax rolls and shall be collected and enforced by the tax
2358 collector in the same manner and at the same time as county
2359 taxes, and the proceeds therefrom shall be paid to the district.
2360 However, this subsection shall not prohibit the district in its
2361 discretion from using the method prescribed in section 197.363,
2362 section 197.3631, or section 197.3632, Florida Statutes, for
2363 collecting and enforcing these assessments. These maintenance
2364 special assessments shall be a lien on the property against
2365 which assessed until paid and shall be enforceable in like
2366 manner as county taxes. The amount of the maintenance special
2367 assessment for the exercise of the district's powers under this
2368 section shall be determined by the board based upon a report by
2369 the district's engineer and assessed by the board upon such
2370 lands, which may be all of the lands within the district

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2371 benefited by the maintenance thereof, apportioned between the
 2372 benefited lands in proportion to the benefits received by each
 2373 tract of land.

2374 (e) The board shall have the power to levy and impose any
 2375 special assessments pursuant to subsection (15).

2376 (f) The collection and enforcement of all taxes levied by
 2377 the district shall be at the same time and in like manner as
 2378 county taxes, and the provisions of the Florida Statutes
 2379 relating to the sale of lands for unpaid and delinquent county
 2380 taxes; the issuance, sale, and delivery of tax certificates for
 2381 such unpaid and delinquent county taxes; the redemption thereof;
 2382 the issuance to individuals of tax deeds based thereon; and all
 2383 other procedures in connection therewith shall be applicable to
 2384 the district to the same extent as if such statutory provisions
 2385 were expressly set forth herein. All taxes shall be subject to
 2386 the same discounts as county taxes.

2387 (g) All taxes provided for in this act shall become
 2388 delinquent and bear penalties on the amount of such taxes in the
 2389 same manner as county taxes.

2390 (h) Benefit special assessments, maintenance special
 2391 assessments, and special assessments are hereby found and
 2392 determined to be non-ad valorem assessments as defined by
 2393 section 197.3632, Florida Statutes. Maintenance taxes are non-ad
 2394 valorem taxes and are not special assessments.

2395 (i) Any and all assessments, including special
 2396 assessments, benefit special assessments, and maintenance
 2397 special assessments authorized by this section; special
 2398 assessments as defined by section 2(6)(z) and granted and

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authorized by this subsection; and maintenance taxes if
authorized by general law, shall constitute a lien on the
property against which assessed from the date of levy and
imposition thereof until paid, coequal with the lien of state,
county, municipal, and school board taxes. These assessments may
be collected, at the district's discretion, under authority of
section 197.3631, Florida Statutes, by the tax collector
pursuant to the provisions of sections 197.3632 and 197.3635,
Florida Statutes, or in accordance with other collection
measures provided by law. In addition to, and not in limitation
of, any powers otherwise set forth herein or in general law,
these assessments may also be enforced pursuant to the
provisions of chapter 173, Florida Statutes.

(j) Except as otherwise provided by law, no levy of ad
valorem taxes or non-ad valorem assessments under this act or
chapter 170 or chapter 197, Florida Statutes, or otherwise by a
board of a district on property of a governmental entity that is
subject to a ground lease as described in section 190.003(13),
Florida Statutes, shall constitute a lien or encumbrance on the
underlying fee interest of such governmental entity.

(15) SPECIAL ASSESSMENTS.--

(a) As an alternative method to the levy and imposition of
special assessments pursuant to chapter 170, Florida Statutes,
pursuant to the authority of section 197.3631, Florida Statutes,
or pursuant to other provisions of general law that provide a
supplemental means or authority to impose, levy, and collect
special assessments as otherwise authorized under this act, the
board may levy and impose special assessments to finance the

2427 exercise of any its powers permitted under this act using the
2428 following uniform procedures:

2429 1. At a noticed meeting, the board shall consider and
2430 review an engineer's report on the costs of the systems,
2431 facilities, and services to be provided, a preliminary
2432 assessment methodology, and a preliminary roll based on acreage
2433 or platted lands, depending upon whether platting has occurred.

2434 2. The assessment methodology shall address and discuss,
2435 and the board shall consider, whether the systems, facilities,
2436 and services being contemplated will result in special benefits
2437 peculiar to the property, different in kind and degree than
2438 general benefits, as a logical connection between the property
2439 and the systems, facilities, and services themselves, and
2440 whether the duty to pay the assessments by the property owners
2441 is apportioned in a manner that is fair and equitable and not in
2442 excess of the special benefit received. It shall be fair and
2443 equitable to designate a fixed proportion of the annual debt
2444 service, together with interest thereon, on the aggregate
2445 principal amount of bonds issued to finance such systems,
2446 facilities, and services which give rise to unique, special, and
2447 peculiar benefits to property of the same or similar
2448 characteristics under the assessment methodology so long as such
2449 fixed proportion does not exceed the unique, special, and
2450 peculiar benefits enjoyed by such property from such systems,
2451 facilities, and services.

2452 3. The engineer's cost report shall identify the nature of
2453 the proposed systems, facilities, and services, their location,
2454 and a cost breakdown plus a total estimated cost, including cost

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of construction or reconstruction, labor and materials, lands, property, rights, easements, franchises or systems, facilities and services to be acquired, cost of plans and specifications, surveys of estimates of costs and of revenues, cost of engineering, legal, and other professional consultation services, and other expenses or costs necessary or incident to determining the feasibility or practicability of such construction, reconstruction, or acquisition, administrative expenses, relationship to the authority and power of the district in its charter, and such other expense or costs as may be necessary or incident to the financing to be authorized by the board.

4. The preliminary assessment roll will be prepared in accordance with the method of assessment provided for in the assessment methodology and as may be adopted by the board. The assessment roll shall be completed as promptly as possible and shall show the acreage, lots, lands, or plats assessed and the amount of the fairly and reasonably apportioned assessment based on special and peculiar benefit to the property, lot, parcel, or acreage of land, and if the assessment against each such lot, parcel, acreage, or portion of land is to be paid in installments, the number of annual installments in which the assessment is divided shall be entered into and shown upon the assessment roll.

5. The board may determine and declare by an initial assessment resolution to levy and assess the assessments with respect to assessable improvements stating the nature of the systems, facilities, and services; improvements, projects, or

2483 infrastructure constituting such assessable improvements; the
2484 information in the engineer's cost report; and the information
2485 in the assessment methodology as determined by the board at the
2486 noticed meeting and referencing and incorporating as part of the
2487 resolution the engineer's cost report, the preliminary
2488 assessment methodology, and the preliminary assessment roll as
2489 referenced exhibits to the resolution by reference. If the board
2490 determines to declare and levy the special assessments by the
2491 initial assessment resolution, the board shall also adopt and
2492 declare a notice resolution, which shall provide and cause the
2493 initial assessment resolution to be published once a week for a
2494 period of 2 weeks in a newspaper of general circulation
2495 published in Okeechobee County. The board shall, by the notice
2496 resolution, fix a time and place at which the owner or owners of
2497 the property to be assessed or any other persons interested
2498 therein may appear before the board and be heard as to the
2499 propriety and advisability of making such improvements, as to
2500 the costs thereof, as to the manner of payment therefor, and as
2501 to the amount thereof to be assessed against each property so
2502 improved. Thirty days' notice in writing of such time and place
2503 shall be given to such property owners. The notice shall include
2504 the amount of the assessment and shall be served by mailing a
2505 copy to each assessed property owner at his or her last known
2506 address, the names and addresses of such property owners to be
2507 obtained from the record of the property appraiser of the county
2508 political subdivision where the land is located or from such
2509 other sources as the district manager or engineer deems
2510 reliable. Proof of such mailing shall be made by the affidavit

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2511 of the manager of the district or by the engineer, said proof to
2512 be filed with the manager of the district, provided that failure
2513 to mail said notice or notices shall not invalidate any of the
2514 proceedings hereunder. It is provided further that the last
2515 publication shall be at least 1 week prior to the date of the
2516 hearing on the final assessment resolution. Said notice shall
2517 describe the general areas to be improved and advise all persons
2518 interested that the description of each property to be assessed
2519 and the amount to be assessed to each piece, parcel, lot, or
2520 acre of property may be ascertained at the office of the manager
2521 of the district. Such service by publication shall be verified
2522 by the affidavit of the publisher and filed with the manager of
2523 the district. Moreover, the initial assessment resolution with
2524 its attached, referenced, and incorporated engineer's cost
2525 report, preliminary assessment methodology, and preliminary
2526 assessment roll, along with the notice resolution, shall be
2527 available for public inspection at the office of the manager and
2528 the office of the engineer or any other office designated by the
2529 board in the notice resolution. Notwithstanding the foregoing,
2530 the landowners of all of the property which is proposed to be
2531 assessed may give the district written notice of waiver of any
2532 notice and publication provided for in this subparagraph, and
2533 such notice and publication shall not be required; however, any
2534 meeting of the board to consider such resolution shall be a
2535 publicly noticed meeting.

2536 6. At the time and place named in the noticed resolution
2537 as provided for in subparagraph 5., the board shall meet and
2538 hear testimony from affected property owners as to the propriety

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2539 and advisability of providing the systems, facilities, services,
 2540 projects, works, improvements, or infrastructure and funding
 2541 them with assessments referenced in the initial assessment
 2542 resolution on the property. Following the testimony and
 2543 questions from the members of the board or any professional
 2544 advisors to the district or the preparers of the engineer's cost
 2545 report, the assessment methodology, and the assessment roll, the
 2546 board shall make a final decision on whether to levy and assess
 2547 the particular assessments. Thereafter, the board shall meet as
 2548 an equalizing board to hear and consider any and all complaints
 2549 as to the particular assessments and shall adjust and equalize
 2550 the assessments on the basis of justice and right.

2551 7. When so equalized and approved by resolution or
 2552 ordinance by the board, to be called the final assessment
 2553 resolution, a final assessment roll shall be filed with the
 2554 manager of the board, and such assessment shall stand confirmed
 2555 and remain legal, valid, and binding first liens on the property
 2556 against which such assessments are made until paid, equal in
 2557 dignity to the first liens of ad valorem taxation of county
 2558 governments and school boards; however, upon completion of the
 2559 systems, facilities, services, projects, improvements, works, or
 2560 infrastructure, the district shall credit to each assessment the
 2561 difference in the assessment as originally made, approved,
 2562 levied, assessed, and confirmed and the proportionate part of
 2563 the actual cost of the improvement to be paid by the particular
 2564 special assessments as finally determined upon the completion of
 2565 the improvement, but in no event shall the final assessment
 2566 exceed the amount of the special and peculiar benefits as

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apportioned fairly and reasonably to the property from the
system, facility, or service being provided as originally
assessed. Promptly after such confirmation, the assessment shall
be recorded by the manager of the board in the minutes of the
proceedings of the district, and the record of the lien in this
set of minutes shall constitute prima facie evidence of its
validity. The board, in its sole discretion, may by resolution
grant a discount equal to all or a part of the payee's
proportionate share of the cost of the project consisting of
bond financing cost, such as capitalized interest, funded
reserves, and bond discounts included in the estimated cost of
the project, upon payment in full of any assessments during such
period prior to the time such financing costs are incurred as
may be specified by the board in such resolution.

8. District assessments may be made payable in
installments over no more than 30 years from the date of the
payment of the first installment thereof and may bear interest
at fixed or variable rates.

(b) Notwithstanding any provision of this act or of
chapter 170 or section 170.09, Florida Statutes, which provide
that assessments may be paid without interest at any time within
30 days after the improvement is completed and a resolution
accepting the same has been adopted by the governing authority,
such provision shall not be applicable to any district
assessments, whether imposed, levied, and collected pursuant to
the provisions of this act or other provisions of Florida law,
including, but not limited to, chapter 170, Florida Statutes.

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(c) In addition, the district is authorized expressly in the exercise of its rulemaking power to promulgate a rule or rules providing for notice, levy, imposition, equalization, and collection of assessments.

(16) ISSUANCE OF CERTIFICATES OF INDEBTEDNESS BASED ON ASSESSMENTS FOR ASSESSABLE IMPROVEMENTS; ASSESSMENT BONDS.--

(a) The board may, after any special assessments or benefit special assessments for assessable improvements are made, determined, and confirmed as provided in this act, issue certificates of indebtedness for the amount so assessed against the abutting property or property otherwise benefited, as the case may be. Separate certificates shall be issued against each part or parcel of land or property assessed, which certificates shall state the general nature of the improvement for which the assessment is made. The certificates shall be payable in annual installments in accordance with the installments of the special assessment for which they are issued. The board may determine the interest to be borne by such certificates, not to exceed the maximum rate allowed by general law, and may sell such certificates at either private or public sale and determine the form, manner of execution, and other details of such certificates. The certificates shall recite that they are payable only from the special assessments levied and collected from the part or parcel of land or property against which they are issued. The proceeds of such certificates may be pledged for the payment of principal of and interest on any revenue bonds or general obligation bonds issued to finance in whole or in part such assessable improvements, or, if not so pledged, may be used

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2622 to pay the cost or part of the cost of such assessable
2623 improvements.

2624 (b) The district may also issue assessment bonds, revenue
2625 bonds, or other obligations payable from a special fund into
2626 which such certificates of indebtedness referred to in the
2627 preceding paragraph may be deposited; or, if such certificates
2628 of indebtedness have not been issued, the district may assign to
2629 such special fund for the benefit of the holders of such
2630 assessment bonds or other obligations, or to a trustee for such
2631 bondholders, the assessment liens provided for in this act
2632 unless such certificates of indebtedness or assessment liens
2633 have been theretofore pledged for any bonds or other obligations
2634 authorized hereunder. In the event of the creation of such
2635 special fund and the issuance of such assessment bonds or other
2636 obligations, the proceeds of such certificates of indebtedness
2637 or assessment liens deposited therein shall be used only for the
2638 payment of the assessment bonds or other obligations issued as
2639 provided in this section. The district is authorized to covenant
2640 with the holders of such assessment bonds, revenue bonds, or
2641 other obligations that it will diligently and faithfully enforce
2642 and collect all the special assessments and interest and
2643 penalties thereon for which such certificates of indebtedness or
2644 assessment liens have been deposited in or assigned to such
2645 fund; to foreclose such assessment liens so assigned to such
2646 special fund or represented by the certificates of indebtedness
2647 deposited in the special fund, after such assessment liens have
2648 become delinquent, and deposit the proceeds derived from such
2649 foreclosure, including interest and penalties, in such special

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2650 fund; and to make any other covenants deemed necessary or
2651 advisable in order to properly secure the holders of such
2652 assessment bonds or other obligations.

2653 (c) The assessment bonds, revenue bonds, or other
2654 obligations issued pursuant to this section shall have such
2655 dates of issue and maturity as shall be deemed advisable by the
2656 board; however, the maturities of such assessment bonds or other
2657 obligations shall not be more than 2 years after the due date of
2658 the last installment which will be payable on any of the special
2659 assessments for which such assessment liens, or the certificates
2660 of indebtedness representing such assessment liens, are assigned
2661 to or deposited in such special fund.

2662 (d) Such assessment bonds, revenue bonds, or other
2663 obligations issued under this section shall bear such interest
2664 as the board may determine, not to exceed the maximum rate
2665 allowed by general law, and shall be executed, shall have such
2666 provisions for redemption prior to maturity, and shall be sold
2667 in the manner of and be subject to all of the applicable
2668 provisions contained in this act for revenue bonds, except as
2669 the same may be inconsistent with the provisions of this
2670 section.

2671 (e) All assessment bonds, revenue bonds, or other
2672 obligations issued under the provisions of this section shall be
2673 and constitute and shall have all the qualities and incidents of
2674 negotiable instruments under the law merchant and the laws of
2675 the state.

2676 (17) TAX LIENS.--All taxes of the district provided for in
2677 this act, except together with all penalties for default in the

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payment of the same and all costs in collecting the same,
including a reasonable attorney's fee fixed by the court and
taxed as a cost in the action brought to enforce payment, shall,
from January 1 for each year the property is liable to
assessment and until paid, constitute a lien of equal dignity
with the liens for state and county taxes and other taxes of
equal dignity with state and county taxes upon all the lands
against which such taxes shall be levied. A sale of any of the
real property within the district for state and county or other
taxes shall not operate to relieve or release the property so
sold from the lien for subsequent district taxes or installments
of district taxes, which lien may be enforced against such
property as though no such sale thereof had been made. In
addition to, and not in limitation of, the preceding sentence,
for purposes of section 197.552, Florida Statutes, the lien of
all special assessments levied by the district shall constitute
a lien of record held by a municipal or county governmental
unit. The provisions of sections 194.171, 197.122, 197.333, and
197.432, Florida Statutes, as each may be amended from time to
time, shall be applicable to district taxes with the same force
and effect as if such provisions were expressly set forth in
this act.

(18) PAYMENT OF TAXES AND REDEMPTION OF TAX LIENS BY THE
DISTRICT; SHARING IN PROCEEDS OF TAX SALE.--

(a) The district shall have the power and right to:

1. Pay any delinquent state, county, district, municipal,
or other tax or assessment upon lands located wholly or
partially within the boundaries of the district; and

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2. Redeem or purchase any tax sales certificates issued or sold on account of any state, county, district, municipal, or other taxes or assessments upon lands located wholly or partially within the boundaries of the district.

(b) Delinquent taxes paid, or tax sales certificates redeemed or purchased, by the district, together with all penalties for the default in payment of the same, all costs in collecting the same, and a reasonable attorney's fee, shall constitute a lien in favor of the district of equal dignity with the liens of state and county taxes and other taxes of equal dignity with state and county taxes upon all the real property against which the taxes were levied. The lien of the district may be foreclosed in the manner provided in this act.

(c) In any sale of land pursuant to section 197.542, Florida Statutes, as may be amended from time to time, the district may certify to the clerk of the circuit court of the county holding such sale the amount of taxes due to the district upon the lands sought to be sold, and the district shall share in the disbursement of the sales proceeds in accordance with the provisions of this act and under the laws of the state.

(19) FORECLOSURE OF LIENS.--Any lien in favor of the district arising under this act may be foreclosed by the district by foreclosure proceedings in the name of the district in a court of competent jurisdiction as provided by general law in like manner as is provided in chapter 173, Florida Statutes, and amendments thereto; the provisions of that chapter shall be applicable to such proceedings with the same force and effect as if those provisions were expressly set forth in this act. Any

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2734 act required or authorized to be done by or on behalf of a
2735 municipality in foreclosure proceedings under chapter 173,
2736 Florida Statutes, may be performed by such officer or agent of
2737 the district as the board may designate. Such foreclosure
2738 proceedings may be brought at any time after the expiration of 1
2739 year from the date any tax, or installment thereof, becomes
2740 delinquent; however, no lien shall be foreclosed against any
2741 political subdivision or agency of the state. Other legal
2742 remedies shall remain available.

2743 (20) MANDATORY USE OF CERTAIN DISTRICT SYSTEMS,
2744 FACILITIES, AND SERVICES.--To the full extent permitted by law,
2745 the district shall require all lands, buildings, premises,
2746 persons, firms, and corporations within the district to use the
2747 water management and control facilities and water and sewer
2748 facilities of the district.

2749 (21) COMPETITIVE PROCUREMENT; BIDS; NEGOTIATIONS; RELATED
2750 PROVISIONS REQUIRED.--

2751 (a) No contract shall be let by the board for any goods,
2752 supplies, or materials to be purchased when the amount thereof
2753 to be paid by the district shall exceed the amount provided in
2754 section 287.017, Florida Statutes, for category four unless
2755 notice of bids shall be advertised once in a newspaper of
2756 general circulation in Okeechobee County. Any board seeking to
2757 construct or improve a public building or structure or other
2758 public works shall comply with the bidding procedures of section
2759 255.20, Florida Statutes, and other applicable general law. In
2760 each case, the bid of the lowest responsive and responsible
2761 bidder shall be accepted unless all bids are rejected because

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the bids are too high or because the board determines it is in the best interests of the district to reject all bids. The board may require the bidders to furnish bond with a responsible surety to be approved by the board. Nothing in this section shall prevent the board from undertaking and performing the construction, operation, and maintenance of any project or facility authorized by this act by the employment of labor, material, and machinery.

(b) The provisions of the Consultants' Competitive Negotiation Act, section 287.055, Florida Statutes, apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services let by the board.

(c) Contracts for maintenance services for any district facility or project shall be subject to competitive bidding requirements when the amount thereof to be paid by the district exceeds the amount provided in section 287.017, Florida Statutes, for category four. The district shall adopt rules, policies, or procedures establishing competitive bidding procedures for maintenance services. Contracts for other services shall not be subject to competitive bidding unless the district adopts a rule, policy, or procedure applying competitive bidding procedures to said contracts.

(22) FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION AND MODIFICATIONS; MINIMUM REVENUE REQUIREMENTS.--

(a) The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, hereinafter sometimes referred to as "revenues," and to revise the same from time to time, for the systems, facilities, and

2790 services furnished by the district within the limits of the
2791 district, including, but not limited to, recreational
2792 facilities, water management and control facilities, and water
2793 and sewer systems; to recover the costs of making connection
2794 with any district service, facility, or system; and to provide
2795 for reasonable penalties against any user or property for any
2796 such rates, fees, rentals, or other charges that are delinquent.

2797 (b) No such rates, fees, rentals, or other charges for any
2798 of the facilities or services of the district shall be fixed
2799 until after a public hearing at which all the users of the
2800 proposed facility or service or owners, tenants, or occupants
2801 served or to be served thereby and all other interested persons
2802 shall have an opportunity to be heard concerning the proposed
2803 rates, fees, rentals, or other charges. Rates, fees, rentals,
2804 and other charges shall be adopted under the administrative
2805 rulemaking authority of the district but shall not apply to
2806 district leases. Notice of such public hearing setting forth the
2807 proposed schedule or schedules of rates, fees, rentals, and
2808 other charges shall have been published in a newspaper of
2809 general circulation in Okeechobee County at least once and at
2810 least 10 days prior to such public hearing. The rulemaking
2811 hearing may be adjourned from time to time. After such hearing,
2812 such schedule or schedules, either as initially proposed or as
2813 modified or amended, may be finally adopted. A copy of the
2814 schedule or schedules of such rates, fees, rentals, or charges
2815 as finally adopted shall be kept on file in an office designated
2816 by the board and shall be open at all reasonable times to public
2817 inspection. The rates, fees, rentals, or charges so fixed for

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2818 any class of users or property served shall be extended to cover
2819 any additional users or properties thereafter served which shall
2820 fall in the same class, without the necessity of any notice or
2821 hearing.

2822 (c) Such rates, fees, rentals, and charges shall be just,
2823 equitable, and uniform for users of the same class and, when
2824 appropriate, may be based or computed either upon the amount of
2825 service furnished, upon the number of average number of persons
2826 residing or working in or otherwise occupying the premises
2827 served, upon any other factor affecting the use of the
2828 facilities furnished, or upon any combination of the foregoing
2829 factors, as may be determined by the board on an equitable
2830 basis.

2831 (d) The rates, fees, rentals, or other charges prescribed
2832 shall be such as will produce revenues, together with any other
2833 assessments, taxes, revenues, or funds available or pledged for
2834 such purpose, at least sufficient to provide for the following
2835 items, but not necessarily in the order stated:

2836 1. All expenses of operation and maintenance of such
2837 facility or service;

2838 2. Payment, when due, of all bonds and interest thereon
2839 for the payment of which such revenues are, or shall have been,
2840 pledged or encumbered, including reserves for such purpose; and

2841 3. Any other funds which may be required under the
2842 resolution or resolutions authorizing the issuance of bonds
2843 pursuant to this act.

2844 (e) The board shall have the power to enter into contracts
2845 for the use of the projects of the district and with respect to

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2846 the services, systems, and facilities furnished or to be
2847 furnished by the district.

2848 (23) RECOVERY OF DELINQUENT CHARGES.--In the event that
2849 any rates, fees, rentals, charges, or delinquent penalties are
2850 not paid as and when due and are in default for 60 days or more,
2851 the unpaid balance thereof and all interest accrued thereon,
2852 together with reasonable attorney's fees and costs, may be
2853 recovered by the district in a civil action.

2854 (24) DISCONTINUANCE OF SERVICE.--In the event the fees,
2855 rentals, or other charges for water and sewer services, or
2856 either of them, are not paid when due, the board shall have the
2857 power, under such reasonable rules and regulations as the board
2858 may adopt, to discontinue and shut off both water and sewer
2859 services until such fees, rentals, or other charges, including
2860 interest, penalties, and charges for the shutting off and
2861 discontinuance of or restoration of such water and sewer
2862 services, or both, are fully paid; for such purposes, the board
2863 may enter on any lands, waters, or premises of any person, firm,
2864 corporation, or body, public or private, within the district
2865 limits. Such delinquent fees, rentals, or other charges,
2866 together with interest, penalties, and charges for the shutting
2867 off and discontinuance of or restoration of such services and
2868 facilities, reasonable attorney's fees, and other expenses, may
2869 be recovered by the district, which may also enforce payment of
2870 such delinquent fees, rentals, or other charges by any other
2871 lawful method of enforcement.

2872 (25) ENFORCEMENT AND PENALTIES.--The board or any
2873 aggrieved person may have recourse to such remedies in law and

2874 at equity as may be necessary to ensure compliance with the
2875 provisions of this act, including injunctive relief to enjoin or
2876 restrain any person violating the provisions of this act or any
2877 bylaws, resolutions, regulations, rules, codes, or orders
2878 adopted under this act. In case any building or structure is
2879 erected, constructed, reconstructed, altered, repaired,
2880 converted, or maintained, or any building, structure, land, or
2881 water is used, in violation of this act or of any code, order,
2882 resolution, or other regulation made under authority conferred
2883 by this act or under law, the board or any citizen residing in
2884 the district may institute any appropriate action or proceeding
2885 to prevent such unlawful erection, construction, reconstruction,
2886 alteration, repair, conversion, maintenance, or use; to
2887 restrain, correct, or avoid such violation; to prevent the
2888 occupancy of such building, structure, land, or water; and to
2889 prevent any illegal act, conduct, business, or use in or about
2890 such premises, land, or water.

2891 (26) SUITS AGAINST THE DISTRICT.--Any suit or action
2892 brought or maintained against the district for damages arising
2893 out of tort, including, without limitation, any claim arising
2894 upon account of an act causing an injury or loss of property,
2895 personal injury, or death, shall be subject to the limitations
2896 provided in section 768.28, Florida Statutes.

2897 (27) EXEMPTION OF DISTRICT PROPERTY FROM EXECUTION.--All
2898 district property shall be exempt from levy and sale by virtue
2899 of an execution, and no execution or other judicial process
2900 shall issue against such property, nor shall any judgment
2901 against the district be a charge or lien on its property or

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revenues; however, nothing contained herein shall apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the district in connection with any of the bonds or obligations of the district.

(28) TERMINATION, CONTRACTION, OR EXPANSION OF DISTRICT.--

(a) The board may ask the Legislature through its local legislative delegation in and for Okeechobee County to amend this act to contract or expand the boundaries of the district by amendment of subsection (2).

(b) The district shall remain in existence until:

1. The district is terminated and dissolved pursuant to amendment to this act by the Legislature; or

2. The district has become inactive pursuant to section 189.4044, Florida Statutes.

(29) INCLUSION OF TERRITORY.--The inclusion of any or all territory of the district within a municipality does not change, alter, or affect the boundary, territory, existence, or jurisdiction of the district.

(30) SALE OF REAL ESTATE WITHIN A DISTRICT; REQUIRED DISCLOSURE TO PURCHASER.--Subsequent to the creation of this district under this act, each contract for the initial sale of a parcel of real property and each contract for the initial sale of a residential unit within the district shall include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract: "THE GROVE COMMUNITY DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES

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2930 AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS
 2931 PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF
 2932 CERTAIN PUBLIC SYSTEMS, FACILITIES, AND SERVICES OF THE DISTRICT
 2933 AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT.
 2934 THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER
 2935 LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND
 2936 ASSESSMENTS PROVIDED FOR BY LAW."

2937 (31) NOTICE OF CREATION AND ESTABLISHMENT.--Within 30 days
 2938 after the election of the first board members, the district
 2939 shall cause to be recorded in the property records in the county
 2940 in which it is located a "Notice of Creation and Establishment
 2941 of the Grove Community District." The notice shall, at a
 2942 minimum, include the legal description of the property of the
 2943 landowners who have consented to establishment of this district
 2944 and a copy of the disclosure statement specified in subsection
 2945 (30).

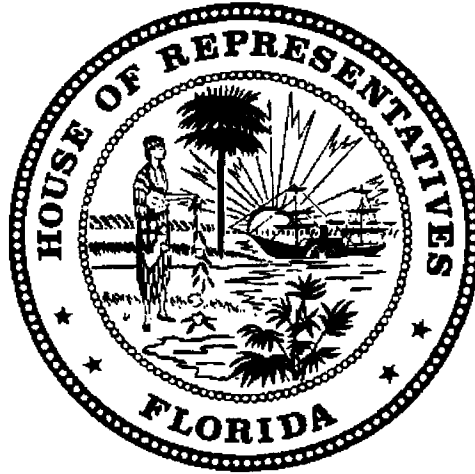
2946 (32) PUBLIC ACCESS.--Any system, facility, service, works,
 2947 improvement, project, or other infrastructure owned by the
 2948 district or funded by federal tax-exempt bonding issued by the
 2949 district is public; the district by rule may regulate, and may
 2950 impose reasonable charges or fees for, the use thereof but not
 2951 to the extent that such regulation or imposition of such charges
 2952 or fees constitutes denial of reasonable access.

2953 Section 5. Severability.--If any provision of this act is
 2954 determined unconstitutional or otherwise determined invalid by a
 2955 court of law, all the rest and remainder of the act shall remain
 2956 in full force and effect as the law of Florida.

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2957 Section 6. This act shall take effect upon becoming a law,
2958 except that the provisions of paragraph (a) of subsection (14)
2959 of section 4 which authorize the levy of ad valorem assessments
2960 shall only take effect upon express approval by a majority vote
2961 of those qualified electors of the district, as required by
2962 Section 9 of Article VII of the State Constitution, voting in a
2963 referendum to be called by the Supervisor of Elections of
2964 Okeechobee County and held by the Board of Supervisors of the
2965 Grove Community District. Such election shall be held in
2966 accordance with the provisions of law relating to elections in
2967 force at the time the referendum is held.



Local Government Council

**Wednesday, April 5, 2006
1:00 p.m.
404 House Office Building**

REVISED

Addendum B (4/5/2006 11:41 AM)

Amendment for HB 1413
Amendment for HB 1629



Local Government Council

**Wednesday, April 5, 2006
1:00 p.m.
404 House Office Building**

Addendum B (4/5/2006 11:41 AM)

Amendment for HB 1413
Amendment for HB 1629

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1413

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER ___

Council/Committee hearing bill: Local Government
Representative Brown offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:
Section 1. Argyle Fire District is hereby created and the
charter for the district is created to read:

Section 1. Definitions.--As used in the act, unless
otherwise specified:

(1) "District" means the Argyle Fire District.

(2) "Board" means the board of commissioners created
pursuant to this act and chapter 191, Florida Statutes.

(3) "Board of directors" means the existing policymaking
and governing body of the Argyle Fire District of Walton County.

(4) "Commissioner" means a member of the board of
commissioners of and for the district.

(5) "Director" means a member of the board of directors.

(6) "Residence" means one single-family dwelling,
including one single-apartment dwelling unit; one single-
condominium dwelling unit; one single duplex, triplex, or other
attached dwelling unit; one single-family detached dwelling
unit; or one single mobile or modular home dwelling unit.

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(7) "Business" means motels, apartments, or rental dwellings, along with other standard commercial or industrial businesses such as gasoline stations, stores, marinas, and similar establishments, as authorized pursuant to the applicable local government comprehensive plan, whether or not such businesses are required to pay or collect sales taxes.

Section 2. Creation; status; charter amendments; boundaries; district purposes.--There is hereby created an independent special fire control district and rescue service district incorporating lands in Walton County described in subsection (1) which shall be a public corporation having the powers, duties, obligations, and immunities herein set forth under the name of the Argyle Fire District. The district is organized and exists for all purposes and shall hold all powers set forth in this act and chapters 189 and 191, Florida Statutes.

(1) The lands to be included within the district are the following described lands in Walton County:

Those portions in Township 2 North, Range 18 West which include, entire sections 1 through 24 inclusive. Sections 26 through 29 inclusive. Sections 33 through 35 inclusive. And all of Sections 30 and 32 lying East of the center of Bruce Creek.

Those portions within Township 2 North, Range 19 West which include, Sections 13 and 24 lying East of the center of Bruce Creek. Sections 1 and 2 lying outside of the present city limits of DeFuniak Springs.

Those portions in Township 3 North, Range 18 West which include, Sections 4 through 9 inclusive. Sections 16 through 21 inclusive. Sections 28 through 29 inclusive. Sections 32 and 33 inclusive. Those

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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portions of Sections 30 and 31 lying outside of the present city limits of DeFuniak Springs.

Those portions in Township 3 North, Range 19 West which include, those parts of Sections 1 and 2 lying South of the centerline of County Road 1883 and Sunrise Road. The portion of Section 3 lying south of the centerline of Sunrise Road. The portion of Section 10 lying North and Southeast of Lake Juniper. Entire Sections 11, 12, 13, 14 and 24. Those portions of Section 15 lying East of a line running North and South from the center of the Lake Juniper Dam and lying outside of the present city limits of DeFuniak Springs. The portion of Section 22 lying East of a line running North and South from the center of the Lake Juniper Dam and lying outside of the present city limits of DeFuniak Springs. Those portions of section 23, 24, 25, and 36 lying North and or East of the present city limits of DeFuniak Springs.

Those portions within Township 4 North, Range 18 West which include, those portions of Section 31, lying South of the centerline of Coy Ellis Road. Those parts of Sections 32 and 33 lying South of the centerline of County Road 183 North. The portion of Section 33 lying East of County Road 183A.

The portion within Township 4 North, Range 19 West which includes, that part of Section 36 lying South and East of County Road 1883 and Coy Ellis Road.

(2) The purpose of this act is to promote the general health, welfare, and safety of the citizens and residents of Walton County who reside within the geographical limits of the Argyle Fire District by providing for the financial support of

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the Argyle Fire District of Walton County, a not-for-profit corporation, which currently provides the district with fire protection services, facilities, and firefighting equipment; the establishment and maintenance of fire stations and fire substations; the acquisition and maintenance of all firefighting and protection equipment necessary for the prevention of fires or fighting of fires; the employment and training of such personnel as may be necessary to accomplish fire prevention and firefighting; the establishment and maintenance of emergency services; the acquisition and maintenance of rescue and other emergency equipment; and the employment and training of necessary emergency personnel. The district may provide emergency medical services. The district shall have all other powers necessary to carry out these purposes.

(3) Nothing herein shall prevent the district from cooperating with the state or other local governments to render such services to communities adjacent to the land described in this section as evidenced by a signed aid agreement.

(4) The district charter may be amended only by special act of the Legislature.

Section 3. Board of commissioners.--

(1) Pursuant to chapter 191, Florida Statutes, the business and affairs of the district shall be governed and administered by a board of five commissioners, who shall be qualified electors residing within the district and shall be elected by the qualified electors residing within the district at a general election, subject to the provisions of chapters 189 and 191, Florida Statutes, and this act. Each commissioner shall hold office until his or her successor is elected and qualified under the provisions of this act. The procedures for conducting district elections and for qualification of candidates and

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electors shall be pursuant to chapters 189 and 191, Florida Statutes.

(2) The five members of the initial board shall be elected by the qualified electors residing within the district. The three elected members for seats 1, 3, and 5 in the initial election under this act shall serve terms of 4 years each. The remaining two selected members for seats 2 and 4 in the initial election under this act shall serve terms of 2 years each. Subsequent elections under this act shall coincide with the general elections of this state. The members of the board shall serve on a nonpartisan basis for a term of 4 years each.

(3) Vacancies in office shall be filled by special election, said election to be held coincidental with the next countywide general or special election. The board may appoint a qualified elector of the district to act as commissioner until the vacancy is filled by election. A commissioner must be a qualified elector residing within the district. A commissioner may be removed from office for any reason that a state or county officer may be removed.

(4) All elections shall be noticed, called, and held pursuant to the provisions of the general laws of the state, except as otherwise provided herein. The board shall, to the extent possible, coordinate all elections with countywide general or special elections in order to minimize costs. Elections shall be called through the adoption of an appropriate resolution of the district directed to the Board of County Commissioners of Walton County, the Supervisor of Elections of Walton County, and other appropriate officers of the county. The district shall reimburse county government for the actual cost of district elections. No commissioner shall be a paid employee of the district while holding said position. This shall not

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147 prevent volunteers from receiving reimbursement for expenses
148 from serving as commissioners.

149 (5) The board may employ such personnel as deemed
150 necessary for the proper function and operation of a fire
151 district. The salaries of fire department and emergency service
152 personnel and any other wages shall be determined by the board.

153 Section 4. Officers; board compensation; bond.--

154 (1) In accordance with chapter 191, Florida Statutes, each
155 elected member of the board shall assume office 10 days
156 following the member's election. Annually, within 60 days after
157 election of new members of said board, the members shall
158 organize by electing from their number a chair, vice chair,
159 secretary, and treasurer. However, the same member may be both
160 secretary and treasurer, in accordance with chapter 191, Florida
161 Statutes.

162 (2) The commissioners may receive reimbursement for actual
163 expenses incurred while performing the duties of their offices
164 in accordance with general law governing per diem for public
165 officials. Commissioners may receive compensation for their
166 services in accordance with chapter 191, Florida Statutes.

167 (3) Each commissioner, upon taking office and in
168 accordance with chapters 189 and 191, Florida Statutes, shall
169 execute to the Governor, for the benefit of the district, a bond
170 of \$5,000 with a qualified personal or corporate surety,
171 conditioned upon the faithful performance of the duties of the
172 commissioner's office and upon an accounting for all funds which
173 come into his or her hands as commissioner; however, the
174 treasurer shall furnish a bond of \$10,000, which may be in lieu
175 of the \$5,000 bond. The premium of such bonds shall be paid from
176 district funds.

177 Section 5. Powers; duties; responsibilities.--

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178 (1) The district shall have and the board may exercise by
179 majority vote all the powers and duties set forth in this act
180 and chapters 189, 191, and 197, Florida Statutes, including, but
181 not limited to, powers related to, special assessments, other
182 revenue-raising capabilities, budget preparation and approval,
183 liens and foreclosure of liens, use of tax deeds and tax
184 certificates as appropriate from non-ad valorem assessments,
185 contractual agreements, and adoption of ordinances and
186 resolutions that are necessary to conduct district business if
187 such ordinances do not conflict with any ordinance of a local
188 general purpose government within whose jurisdiction the
189 district is located.

190 (2) The board shall continue to have the right, power, and
191 authority to levy annually special assessment against the
192 taxable property within the district to provide funds for the
193 purposes of the district, in an amount not to exceed the limit
194 provided in chapter 191, Florida Statutes.

195 (3) The methods for assessing and collecting special
196 assessments, fees, or service charges shall be as set forth in
197 this act and chapters 170, 189, 191, and 197, Florida Statutes.

198 (4) The district shall impose and collect special
199 assessments in accordance with chapter 200, Florida Statutes.

200 (5) The district is authorized to impose and enforce
201 special assessments in accordance with chapters 170, 189, 191,
202 and 197, Florida Statutes.

203 (6) The district's planning requirements shall be as set
204 forth in this act and chapters 189 and 191, Florida Statutes.

205 (7) Requirements for financial disclosure, meeting
206 notices, reporting, public records maintenance, and per diem
207 expenses for officers and employees shall be as set forth in

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208 this act and chapters 112, 119, 189, 191, and 286, Florida
209 Statutes.

210 Section 6. Impact fees.--

211 (1) Pursuant to section 191.009(4), Florida Statutes, it
212 is hereby declared that the cost of new facilities borne by fire
213 protection and emergency services should be borne by new users
214 of the district's services to the extent new construction
215 requires new facilities, but only to that extent. It is the
216 legislative intent of this section to transfer to the new users
217 of the district's fire protection and emergency services a fair
218 share of the costs that new users impose on the district for new
219 facilities. This shall only apply in the event that the general-
220 purpose local government in which the district is located has
221 not adopted an impact fee for fire services which is distributed
222 to the district for construction within its jurisdictional
223 boundaries.

224 (2) The impact fees collected by the district pursuant to
225 this section shall be kept as a separate fund from other
226 revenues of the district and shall be used exclusively for the
227 acquisition, purchase, or construction of new facilities or
228 portions thereof required to provide fire protection and
229 emergency services to new construction. "New facilities" means
230 land, buildings, and capital equipment, including, but not
231 limited to, fire and emergency vehicles and radio telemetry
232 equipment. The fees shall not be used for the acquisition,
233 purchase, or construction of facilities which must be obtained
234 in any event, regardless of growth within the district. The
235 board of fire commissioners shall maintain adequate records to
236 ensure that impact fees are expended only for permissible new
237 facilities.

238 Section 7. Special assessments.--

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239 (1) The board shall have the right, power, and authority
240 to impose special assessments against the real property that is
241 not otherwise exempt or immune within the district to provide
242 funds for the purpose of the district.

243 (2)(a) For each residential dwelling or mobile home
244 situated on any parcel of land within said district, the charge
245 shall be \$25 annually. It is expressly understood that mobile
246 home parks or multiunit dwellings are not included in this
247 category and shall be included in paragraph (b).

248 (b) For each mobile home park, apartment building, motel,
249 hotel, condominium, townhouse, or other multifamily residence,
250 the charge shall not exceed:

- 251 1. 2 to 4 units or lots, \$25 each annually.
252 2. 5 to 10 units or lots, \$20 each annually.
253 3. 11 to 25 units or lots, \$18 each annually.
254 4. Over 25 units or lots, \$15 each annually.

255 (c) For each commercial establishment or business, the
256 charge shall not exceed the following rates:

- 257 1. Up to 5,000 square feet of floor space: \$50 annually.
258 2. Over 5,000 square feet of floor space: \$100 annually.
259

260 The existence of a commercial establishment or business shall be
261 evidenced by the presence of advertising signs, by tax roll
262 classification, or by custom. Business enterprises wholly
263 contained within a residential unit shall not be included in
264 this category and shall be included under paragraph (a).
265 Multifamily residential units and mobile home parks shall be
266 included under paragraph (b).

267 (d) No assessment shall be levied for any parcel of
268 agricultural, timber, unimproved residential, or other
269 unimproved property. Adjoining parcels owned by an individual

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270 taxpayer will be treated as one parcel for assessment purposes,
271 even though they may be shown as separate items on the county
272 tax roll.

273 (e) No assessment shall be levied against churches,
274 schools, governmental property, or property owned by other
275 nonprofit charitable organizations.

276 (f) Any increase in the special assessment must be
277 approved by a majority of the electors within the Argyle Fire
278 District.

279 (3) It is the legislative intent that this act shall
280 authorize the Walton County Property Appraiser and the Walton
281 County Tax Collector to take all appropriate action to comply
282 with the intent of the purpose of this act.

283 (4) It is also the legislative intent that the board of
284 commissioners shall be a vehicle to provide funding to
285 accomplish the purpose set out in this act.

286 Section 8. Property appraiser.--

287 (1) The Walton County Property Appraiser shall furnish the
288 commissioners a tax roll covering all taxable properties within
289 the district on or before July 1 of each year.

290 (2) The Walton County Property Appraiser shall include in
291 the Walton County tax roll the assessments made by the board,
292 and the same shall be collected in the manner as provided for by
293 this act and paid over by the Walton County Tax Collector to the
294 board.

295 (3) The Walton County Property Appraiser shall be
296 reimbursed for assessing such special assessments in the manner
297 and amount authorized by general law, and the Walton County Tax
298 Collector shall receive a commission or fee of 1 percent for
299 collection of such special assessments.

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300 Section 9. Special assessment as a lien.--The special
301 assessment levied and assessed by the district shall be a lien
302 upon the property so assessed along with the county taxes
303 assessed against such property until said assessment and taxes
304 have been paid, and if the special assessment levied by the
305 district becomes delinquent, such special assessment shall be
306 considered a part of the county tax subject to the same
307 penalties, charges, fees, and remedies for enforcement and
308 collection of such taxes.

309 Section 10. Deposit of special assessments; fees;
310 authority to disburse funds.--

311 (1) The proceeds of the assessments and funds of the
312 district shall be deposited in qualified public depositories in
313 accordance with chapters 191 and 280, Florida Statutes, in the
314 name of the district in a bank authorized to receive deposits of
315 district funds. The bank shall be designated by a resolution of
316 the board.

317 (2) All warrants for the payment of labor, equipment, and
318 other expenses of the board, and in carrying into effect this
319 act and the purpose thereof, shall be payable by the treasurer
320 of the board on accounts and vouchers approved and authorized by
321 two board members. No funds of the district shall be paid out or
322 disbursed except by check signed by two board members.

323 Section 11. Authority to borrow money.--

324 (1) The board of commissioners shall have the power and
325 authority to borrow money or issue other evidences of
326 indebtedness for the purpose of the district in accordance with
327 chapters 189 and 191, Florida Statutes, provided, however, that
328 the total payments in any one year, including principal and
329 interest, on any indebtedness incurred by the district shall not

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exceed 50 percent of the total estimated annual budgeted
revenues of the district.

(2) The board of commissioners, board of directors as a
body, or any of the members of either board as individuals shall
not be personally or individually liable for the repayment of
such loan. Such repayment shall be made out of the special
assessment receipts of the district, except as provided in this
subsection. The commissioners shall not create any indebtedness
or incur obligations for any sum or amount which they are unable
to repay out of district funds available to them at that time,
except as otherwise provided in this act, provided, however,
that the commissioners may make purchases of equipment on an
installment basis as necessary if funds are available for the
payment of the current year's installment on such equipment plus
the amount due in that year of any of the installments and the
repayment of any bank loan or other existing indebtedness which
may be due that year.

Section 12. Use of district funds.--No funds of the
district shall be used for any purposes other than the
administration of the affairs and business of the district; the
construction, care, maintenance, upkeep, operation, and purchase
of firefighting and rescue equipment or fire station; the
payment of public utilities; and the payment of salaries of
district personnel as the board may from time to time determine
to be necessary for the operations and effectiveness of the
district.

Section 13. Record of board meetings; authority to adopt
rules and regulations; annual reports; budget.--

(1) A record shall be kept of all meetings of the board,
and in such meetings concurrence of a majority of the

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commissioners present shall be necessary to any affirmative action by the board.

(2) The board shall have the authority to adopt and amend rules and regulations for the administration of the affairs of the district under the terms of this act and chapters 189 and 191, Florida Statutes, which shall include, but not be limited to, the authority to adopt the necessary rules and regulations for the administration and supervision of the property and personnel of the district; for the prevention of fires, fire control, fire hydrant placement, and flow testing in accordance with current NFPA rules; and for rescue work within the district. Said commissioners shall have all the lawful power and the authority necessary to carry out the purposes of said fire district; to purchase all necessary real and personal property; to purchase and carry standard insurance policies on all such equipment; to employ such personnel as may be necessary to carry out the purpose of said fire district; to provide adequate insurance for said employees; to purchase and carry appropriate insurance for the protection of all firefighters and personnel as well as all equipment and personal property on loan to the district; to sell surplus real and personal property in the same manner and subject to the same restrictions as provided for such sales by counties; to enter into contracts with qualified service providers, the Argyle Fire District of Walton County, other fire departments, municipalities, and state and federal governmental units for the purpose of obtaining financial aid; and for otherwise carrying out the purposes of the district. The commissioners shall adopt a fiscal year for said fire district, which shall be October 1 to September 30.

(3) Any policies, rules, and regulations promulgated and made by the board shall have the force and effect of law after

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copies thereof, signed by the secretary and chair or vice chair,
shall have been posted in three public places within the
district in conspicuous locations and advertised by title once a
week for 2 consecutive weeks in a newspaper of general paid
circulation in the district.

(4) The board shall, on or before November 1, make an
annual report of its actions and accounting of its funds as of
September of that year, and shall file said report in the office
of the Clerk of the Circuit Court of Walton County, whose duty
it shall be to receive and file said report and hold and keep
the same as a public record.

(5) For the purposes of carrying into effect this act, the
board shall annually prepare, consider, and adopt a district
budget pursuant to the applicable requirements of chapters 189
and 191, Florida Statutes. The board shall, at the same time as
it makes its annual report, file its estimated budget for the
fiscal year beginning October 1, which budget shall show the
estimated revenue to be received by the district and the
estimated expenditures to be incurred by the district in
carrying out its operations.

Section 14. Authority to enact fire prevention ordinances;
appoint or employ a fire chief; acquire land; enter contracts;
establish salaries; general and special powers; authority to
provide emergency medical and rescue services.--

(1) The board of commissioners shall have the right and
power to enact fire prevention ordinances in the same manner
provided for the adoption of policies and regulations in
subsection (2) of section 13, and when the provisions of such
fire prevention ordinances are determined by the board to be
violated, the office of the state attorney, upon written notice
of such violation issued by the board, is authorized to

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422 prosecute such person or persons held to be in violation
423 thereof. Any person found guilty of a violation may be punished
424 as provided in chapter 775, Florida Statutes, as a misdemeanor
425 of the second degree. The cost of such prosecution shall be paid
426 out of the district funds, unless otherwise provided by law.

427 (2) The board shall have the power to appoint or employ a
428 fire chief, who shall be a person experienced in all types of
429 firefighting and fire prevention and who shall work with and
430 cooperate with the Fire Marshal in which the district is
431 situated in the prevention of fires of all types. The district
432 fire chief shall be authorized to enter, at all reasonable
433 hours, any building or premises for the purpose of making any
434 inspection or investigation which the State Fire Marshal is
435 authorized to make pursuant to state law and regulation. The
436 owner, lessee, manager, or operator of any building or premises
437 shall permit the district fire chief to enter and inspect the
438 building or premises at all reasonable hours. The district fire
439 chief shall report any violations of state fire safety laws or
440 regulations to the appropriate officials.

441 (3) The board shall have the power to acquire, by gift or
442 purchase, lands or rights in lands, and any other property, real
443 and personal, tangible or intangible, necessary, desirable, or
444 convenient for carrying out the purposes of the district, and to
445 pay any and all costs of same out of the funds of the district,
446 provided that prior to the acquisition of the location of a fire
447 station site, an appropriate investigation shall be conducted
448 which shall include, but not be limited to, obtaining the staff
449 recommendation of the Walton County Planning Department.

450 (4) The board shall have the power to enter into contracts
451 or to otherwise join with the Argyle Fire District of Walton
452 County, or to otherwise join with any other district, city, or

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town, the United States of America, or any agency or authority thereunder, for the purpose of expanding services, providing effective aid, and accomplishing and carrying out the purposes for which the district was created and for the further purpose of specifically obtaining financial aid, assistance, or subsidy.

(5) The salaries of fire department personnel and any other wages shall be determined by the board.

(6) The district is authorized to establish and maintain emergency medical and rescue response services and acquire and maintain rescue, medical, and other emergency equipment, subject to the provisions of chapter 401, Florida Statutes.

Section 15. Annexations.--If any municipality or other fire control district annexes any land included in the district, such annexation shall follow the procedures set forth in section 171.093, Florida Statutes.

Section 16. Dissolution.--The district shall exist until dissolved in the same manner as it was created. If the Argyle Fire District of Walton County is dissolved or ceases to exist for any reason, or if the board determines that the Argyle Fire District of Walton County is unable to carry out its objectives as stated or the objectives of the district as stated in subsection (2) of section 2, or the district's published policies, the board shall in its discretion make arrangements for other means of providing fire protection and rescue services.

Section 18. District expansion.--

(1) The district boundaries may be extended from time to time as follows:

(a) Land contiguous to the boundaries of the district in unincorporated Walton County may be included in the district when a petition for inclusion signed and sworn to by a majority

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of the owners of the real property within the tract or tracts to
be included in the district has been presented to the board of
commissioners and the proposal has been approved by the
affirmative vote of no fewer than three members of the board of
commissioners at a regular meeting.

(b) The petition must contain the legal description of the
property sought to be added to the district and the names and
addresses of the owners of the property.

(2) If a proposal to add an area to the district as
defined in subsection (1) is approved by the affirmative vote of
no fewer than three members of the board of commissioners at a
regular meeting, the board of commissioners shall thereafter
adopt a resolution describing the lands to be included within
the district and shall cause such resolution to be duly enrolled
in the record of the meeting and a certified copy of the
resolution to be recorded in the Office of the Clerk of the
Circuit Court of Walton County.

(3) Upon adoption of the resolution by the board, the
district shall, pursuant to chapter 191, Florida Statutes,
request that its legislative delegation approve said addition
and sponsor legislation amending the district boundary. Upon
approval by the Legislature, the boundary shall be amended.

Section 19. Construction.--This act shall be construed as
remedial and shall be liberally construed to promote the purpose
for which it is intended.

Section 20. Effect.--In the event that any part of this
act should be held void for any reason, such holding shall not
affect any other part thereof.

Section 2. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to Argyle Fire District, Walton County;
creating a special district; providing definitions;
providing for creation, status, charter amendments,
boundaries, and purposes; providing for a board of
commissioners; providing for election and terms of
commissioners; providing for employment of board
personnel; providing for election of board officers;
providing for compensation and bonds of commissioners;
providing for powers, duties, and responsibilities of the
board; preserving the authority to impose special
assessments; providing for impact fees; providing
legislative intent; providing for duties of the property
appraiser; providing for special assessment as a lien;
providing for deposit of such special assessments;
providing for authority to disburse funds; authorizing the
board to borrow money; providing for use of district
funds; requiring a record of all board meetings;
authorizing the board to adopt rules and regulations;
providing for the board to make an annual budget;
requiring an annual report; authorizing the board to enact
fire prevention ordinances, appoint a district fire chief,
acquire land, enter contracts, establish salaries, and
establish and operate a fire rescue service; providing for
dissolution; providing for district expansion; providing
for construction and effect; providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1629

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Local Government
Representative Jennings offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. (1) The reenactment of existing law in this act shall not be construed as a grant of additional authority to or to supersede the authority of any entity pursuant to law. Exceptions to law contained in any special act that are reenacted pursuant to this act shall continue to apply.

(2) The reenactment of existing law in this act shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness. Nothing pertaining to the reenactment of existing law in this act shall be construed to affect the ability of any district to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing bonded indebtedness of the district.

Section 2. Chapters 86-469, 89-433, and 95-457, Laws of Florida, are amended, codified, reenacted, and repealed as provided in this act.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Section 3. The charter for the Gainesville-Alachua County Regional Airport Authority is re-created and reenacted to read:

Section 1. Short title.--This act may be cited as the "Gainesville-Alachua County Regional Airport Authority Act."

Section 2. Definitions.--As used in this act, unless the context otherwise requires, the term:

(1) "Airport" means any area, of land or water, which is designed for the landing and taking off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft or for receiving and discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, in the area shown on the map attached hereto as Exhibit "A" and made a part hereof, which may change from time to time by written agreement between the airport and the city.

(2) "Airport facilities" means facilities in the area shown on the attached map as Exhibit "A," and used for the transportation of people and cargo, including, but not limited to, runways, taxiways, taxi lanes, aprons, hangars, shops, terminals, buildings, parking lots, roadways and all other facilities necessary or desirable for the landing, taking off, operating, servicing, repairing and parking of aircraft, and the unloading and handling of passengers, mail, express and freight cargo, together with all necessary appurtenances and equipment and all property rights, easements and franchises relating thereto.

(3) "Authority" means the Gainesville-Alachua County Regional Airport Authority created herein.

(4) "Board of County Commissioners" means the Board of County Commissioners of the County of Alachua.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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53 (5) "Bond" includes bonds, debentures, notes, certificates
54 of indebtedness, mortgage certificates, or other obligations or
55 evidences of indebtedness of any type or character.

56 (6) "City" means the City of Gainesville.

57 (7) "City Commission" means the City Commission of the
58 City of Gainesville.

59 (8) "County" means the County of Alachua.

60 (9) "Person" means any individual, firm, partnership,
61 corporation, company, association, joint stock association, or
62 body politic; and includes any trustee, receiver, assignee, or
63 other similar representative thereof.

64 (10) "Revenue bonds" means obligations of the authority
65 which are payable from revenues derived from sources other than
66 ad valorem taxes on real or tangible personal property and which
67 do not pledge the property, credit, or general tax revenue of
68 the authority or the city.

69 (11) "Refunding bonds" means bonds issued to refinance
70 outstanding bonds of any type and the interest and redemption
71 premium thereon. Refunding bonds shall be issuable and payable
72 in the +same manner as the refinanced bonds, except that no
73 approval by the electorate shall be required unless required by
74 the State Constitution.

75 Section 3. Creation; purpose.--

76 (1) The Gainesville-Alachua County Regional Airport
77 Authority is created, and the powers granted by this act are
78 declared to be public and governmental functions, exercised for
79 public purposes, and are matters of public necessity. Lands and
80 other real and personal property, easements, and privileges
81 acquired and used by the authority are declared to have been
82 acquired for and used for public and governmental purposes and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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83 as a matter of public necessity. The authority is a public body
84 corporate and is an independent special district.

85 (2) The authority shall have jurisdiction over the
86 operation and maintenance of, and improvements to, the Airport
87 and Airport Facilities. The authority has jurisdiction,
88 control, supervision, and management over other airports in the
89 county except any airport owned, controlled, and operated by a
90 private person. Said jurisdiction, control, supervision, and
91 management are in the best interest of the county and each
92 municipality.

93 Section 4. Membership of the authority.--

94 (1) The powers of the authority shall be vested in its
95 members in office from time to time. There shall be nine
96 members. No member shall receive any compensation for services
97 as a member. As a condition of eligibility for appointment and
98 to hold office, each member shall reside within the city or the
99 county. However, one member appointed by the Governor may
100 reside in a county contiguous to Alachua County. No person
101 shall serve as a member of the authority and, at the same time,
102 hold any publicly elected office in the State of Florida.

103 (2) Upon expiration of initial terms of office subsequent
104 appointments shall be made as follows:

105 (a) The Governor shall replace by appointment any of the
106 three members appointed by him under chapter 95-457, Laws of
107 Florida, on or prior to the date of expiration of the preceding
108 term.

109 (b) The board of county commissioners shall replace by
110 appointment the member appointed by it under chapter 95-457,
111 Laws of Florida, on or prior to the date of expiration of the
112 preceding term.

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113 (c) The city commission shall replace by appointment any
114 of the remaining five (5) members on or prior to the expiration
115 of the preceding term.

116 (3) If, upon expiration of a member's term of office, the
117 appointing entity fails to replace by appointment its member,
118 and the member is willing to continue to serve, the member with
119 the expired term shall continue to serve until a replacement
120 appointment is made.

121 (4) The term of any member initially appointed prior to
122 this act shall expire on July 31 of the year such member's term
123 was scheduled to expire under chapter 95-457, Laws of Florida.
124 No member shall serve more than two successive terms.

125 (5) All members appointed subsequent to the effective date
126 of this legislation shall serve 3-year terms of office,
127 beginning on August 1 and expiring on July 31 of the appropriate
128 year.

129 (6) Except as may be otherwise provided herein, vacancies
130 in office shall be filled for the balance of the term by the
131 appropriate appointing entity, in the same manner as set forth
132 in sub-paragraph (2). A vacant position shall remain vacant
133 until a successor has been appointed by the appropriate
134 appointing entity.

135 (7) A member may be removed by the entity appointing such
136 member upon grounds constituting misfeasance, neglect of duty,
137 incompetence, or permanent inability to perform official duties.
138 Conviction of a felony shall automatically remove a member. The
139 unexcused failure to attend three consecutive regular meetings
140 of the authority shall be deemed neglect of duty, without
141 limiting the meaning of the term, "neglect of duty".

142 Section 5. Organization; meetings; notice; quorum.-

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143 (1) A chair, vice-chair, and secretary/treasurer shall be
144 chosen by and from the authority membership. The chair, vice
145 chair, and secretary/treasurer shall each serve a term of office
146 of 1 year, and no member shall hold the same office for more
147 than 2 consecutive terms.

148 (a) The authority shall meet at the call of the chair, at
149 the request of three or more of its members, and at such other
150 times as may be prescribed by rule of the authority.

151 (b) The authority shall give notice of all meetings at
152 least 48 hours prior thereto, which shall be published in a
153 newspaper in general circulation in Alachua County, and shall
154 include agenda items whenever such items involve leasing of any
155 Airport property. All meetings of the authority shall be so
156 noticed except Emergency meetings, which shall only be called
157 when there is an immediate danger to the public health, safety
158 or welfare, do not require at least 48 hours prior public
159 notice, and reasonable notice under the circumstances shall be
160 provided in such cases.

161 (c) The presence of five members is required to constitute
162 a quorum, and the affirmative vote of a majority of the members
163 present and eligible to vote, but no fewer than four of the
164 members present and eligible to vote, is required for any action
165 or recommendation by the authority.

166 Section 6. Restrictions.--

167 (1) No person who has transacted business with the
168 authority shall be eligible for appointment to the authority
169 until 3 years after the last transaction. No person who has
170 served on the authority shall be eligible to transact business
171 with the authority until 3 years after the person's last date of
172 service. Said transactions include transactions either for
173 oneself or as an employee of, agent for, or consultant to any

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174 other person or legal entity. However, nothing in this
175 paragraph shall be construed as prohibiting an appointed member
176 from purchasing supplies or services from any fixed-base
177 operators or tenants at the Airport or Airport Industrial Park,
178 or for renting individual aircraft hangars or tie-downs offered
179 to the general public and owned by the authority, provided that
180 the price and terms of the transaction are available to all
181 members of the public.

182 (2) No member, officer, agent, or employee of the
183 authority, either for himself or as agent for anyone else, or as
184 a stockholder or owner in any other legal entity, shall
185 participate in or benefit directly or indirectly from any sale,
186 purchase, lease, franchise, contract, or other transaction,
187 entered into by the authority or the city. The provisions of
188 this paragraph shall be cumulative to any general laws of the
189 state which may from time to time be applicable to members,
190 officers, agents or employees of the authority and which require
191 the disclosure of, or prohibit, conflicts of interest.

192 (3) No member, as an individual, may represent the
193 authority, speak for the authority, or speak on behalf of the
194 authority without being directed through a formal action of the
195 authority to do so.

196 Section 7. Powers and duties.--

197 (1) The authority shall have jurisdiction over the
198 operation and maintenance of all Airport and Airport Facilities
199 in the city or county, except any airport owned and operated by
200 a private person.

201 (2) The authority has the power to and may:

202 (a) Approve, file with the CEO, and pay any surety bond
203 required of any member or of any employee of the authority.
204

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205 (b) Advertise for sealed bids when required by law;
206 provided, however, the authority may reject all bids and
207 readvertise or select a single item from any bid as further
208 provided in this act.

209 (c) Adopt before October 1 an annual budget which has been
210 prepared by the CEO and which must include an estimate of all
211 revenues and anticipated expenditures for the following fiscal
212 year.

213 (d) Require in all bond documents that monies derived from
214 such bonds be paid to or upon order of the authority.

215 (e) Have the authority's finances audited in the same
216 manner as other independent special districts are audited.

217 (f) Rely on the provisions of this act in exercising its
218 powers.

219 (g) To appoint or employ and constitute its own Airport
220 guards or police officers, or to contract with the city, county,
221 or agency of the state to provide law enforcement services and
222 protection through its duly sworn officers, and all such
223 officers shall have full power of arrest to prevent or abate the
224 commission of an offense against the ordinances of the city,
225 county, the laws of this state, or the laws of the United
226 States, when any such offense, or threatened offense occurs upon
227 the Airport, identified in Exhibit "A."

228 (h) Construct and maintain terminal buildings, causeways,
229 roadways, bridges for approach to or connecting with the
230 Airport, on the Airport.

231 (i) Require the Secretary/Treasurer and other officers or
232 employees of the authority to execute an adequate surety bond,
233 conditioned upon the faithful performance of the duties of the
234 office or employment and in a penal sum fixed by the authority.

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235 (j) Establish positions, duties, and a pay plan, and
236 employ, pay, provide benefits for, promote, discipline, and
237 terminate personnel and a CEO, in accordance with general law,
238 who shall be responsible for the day-to-day administration,
239 management, and operation of the Airport in accordance with
240 policy established by the authority and perform other duties as
241 may be authorized by the authority.

242 (k) By policy or resolution, authorize the CEO to perform
243 any of the powers of the authority in whole or in part and with
244 whatever other limitations it may find appropriate, provided
245 that said authorization does not result in an invalid exercise
246 of delegated legislative authority as defined in general law.

247 (l) Employ or contract with technical and professional
248 experts necessary to assist the authority in carrying out or
249 exercising any powers granted by this act.

250 (m) Reimburse for all travel expenses incurred while on
251 business for the authority, upon requisition, any member, its
252 attorneys, the CEO, and any employee of the authority traveling
253 under the direction of the CEO or the CEO's designee in
254 accordance with section 112.061, Florida Statutes.

255 (n) Create, appoint, and prescribe the duties of any
256 committee.

257 (o) Sue and be sued.

258 (p) Adopt, use, and alter a corporate seal.

259 (q) Publish advertisements.

260 (r) Waive advertisement when the authority determines an
261 emergency exists and supplies and materials must be immediately
262 acquired by the authority.

263 (s) Negotiate and enter into contracts, agreements,
264 exclusive or limited agreements, and cooperation agreements of

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any kind necessary for the authority to fulfill the purposes of this act.

(t) Include contract specifications maximizing the employment of persons whose protected group has been underutilized in the past.

(u) Provide for the manual execution of any instrument on behalf of the authority by the signature of the Chair or Vice-Chair, and attested to by the Secretary or the Assistant Secretary or, if delegated by the members to do so, the CEO or any other authority personnel to whom authority has been delegated, or by their facsimile signature in accordance with the Uniform Facsimile Signature of Public Officials Act.

(v) Purchase and sell equipment, supplies, and services required for its purposes.

(w) To consent to the sale, lease, transfer, disposition of, or granting a lesser interest in the Airport. To let or lease the Airport and the Airport facilities or any portion thereof and to grant concessions upon such terms and conditions as it shall deem proper.

(x) Dispose of tangible personal property in accordance with chapter 274, Florida Statutes, as may be amended from time to time.

(y) Advertise, promote, and encourage the use and expansion of facilities under its jurisdiction.

(z) The Airport shall have jurisdiction over the operation and maintenance of the property shown on Exhibit "A." All development activity must be in accordance with the City of Gainesville's Comprehensive Plan and Land Development Regulations, except as set forth below in this paragraph, and with the Airport Master Zoning Plan to be adopted by the city commission and updated from time to time by the city commission.

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296 The Airport may adopt its own development standards relating
297 only to heights and design of buildings, landscaping, parking,
298 sidewalks, lighting and signage (excluding billboards and off-
299 premises signs). If the authority formally adopts such
300 development standards, they will apply in lieu of the comparable
301 specific standards in the city's land development regulations.

302 (aa) To acquire real property in fee simple or any lesser
303 interest or easement by purchase, gift, devise, lease or other
304 means if the authority is able to agree with the owners of said
305 property on the terms of such acquisition. To acquire real
306 property in fee simple or any lesser interest or easement as it
307 may deem necessary for the property managing and operation of
308 the airport and airport facilities, by condemnation in the
309 manner provided by the law under which municipalities are
310 authorized to acquire property for public purposes, with full
311 power to exercise the right of eminent domain for such purposes
312 being hereby granted to said authority as specified in and
313 including all the powers, rights, and privileges of chapters 73
314 and 74, Florida Statutes, or any succeeding legislation. For
315 the purposes of making surveys and examinations relative to any
316 condemnation proceedings, it shall be lawful to enter upon any
317 land, doing no unnecessary damage. The authority may take
318 possession of any such property to be acquired at any time after
319 the filing of the petition describing the same in condemnation
320 proceedings, as provided in chapters 73 and 74, Florida
321 Statutes. It shall not be precluded from abandoning the
322 condemnation of any such property in any case where possession
323 thereof has not been taken. To acquire or lease personal
324 property in the name of the authority.

325 (bb) Reimburse the owner of any structure for which the
326 authority may require removal, relocation, or reconstruction

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located in, on, under, or across any private property, public street, highway, or other public or private places for the estimated or actual expense of the removal, relocation, or reconstruction.

(cc) Supplement and coordinate in design and operation air navigation facilities with those established and operated by the federal and state governments.

(dd) Request the county or any municipality to convey to the authority the fee simple title to any airport or other property owned by the county or any municipality and needed for Airport purposes.

(ee) Relinquish jurisdiction, control, supervision, and management over the Airport or part of the Airport which is under its jurisdiction but which is owned by a municipality, county, or other governmental agency, upon determining that any such Airport or part of any such Airport is no longer required for Airport purposes; provided, however, that the consent and approval of any municipality, county, or other government agency and any revenue bondholders is first obtained and necessary authorizations or approvals are received from federal agencies regulating airports.

(ff) Expend revenues for the cost of investigating, surveying, planning, acquiring, establishing, constructing, enlarging, improving, equipping, and erecting Airport facilities by appropriation of revenues or wholly or partly from the proceeds of bonds of the authority. The term "cost" includes awards in condemnation proceedings, rentals where an acquisition is by lease, and amounts paid to utility companies for relocation of their wires, poles, and other facilities.

(gg) Incur expenses as provided in its annual budget and any amended budget.

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(hh) Assess against and collect from the owner or operator of each airplane using any Airport facility a landing fee or service charge sufficient to cover the cost of the service furnished to airplanes using any such facility, which cost may include the liquidation of bonds or other indebtedness for construction and improvement.

(ii) Accept federal, state, and any other public or private monies, grants, contributions, or loans for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of Airport facilities, or any other lawful purpose.

(jj) Fix, alter, charge, establish, and collect rates, fees, rentals, and other charges for the services of authority at reasonable and uniform rates.

(kk) Apply for, hold, and periodically transfer alcoholic beverage licenses as provided by this act.

(ll) Adopt and amend rules, regulations, and policies reasonably necessary for the implementation of this act.

(mm) By resolution, fix and enforce civil penalties for the violation of a rule, regulation, or policy adopted in accordance with this act relating to the operations of general aviation, air passenger service or ground transportation service.

(nn) Amend the budget after its adoption.

(oo) Receive, deposit, secure, and pay out monies as provided by this act.

(pp) Designate a depository or depositories which is qualified as a public depository pursuant to section 280.04, Florida Statutes, as may be amended from time to time, and thereafter establish and open an account or accounts into which

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revenues collected are to be deposited and from which expenditures may be made.

(qq) Establish and deposit into and expend monies from a surplus fund by using funds that may remain unexpended at the end of the fiscal year and may be set aside in a separate fund to be known as the Capital Improvement Fund and accumulated and expended from year to year solely for the purpose of building and constructing permanent improvements, replacements, alterations, buildings, and other structures, including runways, taxi strips, and aprons.

(rr) By resolution, borrow money and issue bonds in the manner and within the limitation, except as otherwise provided in this act, prescribed by general law for the issuance and authorization of bonds; however, any bonds issued by the authority shall have a maturity date not exceeding 40 years from the date of issuance, shall be self-liquidating or otherwise payable from revenues of the authority, shall be payable semiannually, and shall not be a lien against the general taxing powers of the county or any municipality.

(ss) Enter into any agreements with any bank or trust company as security for its bonds, and assign and pledge any or all of its revenues. Such agreements may contain provisions customary in such instruments or as authorized by the authority.

(tt) Secure the payment of bonds or any part thereof by pledging all or any part of its revenues and provide for the security of said bonds, without pledging any real property rights to the Airport or Airport facilities, and the rights and remedies of the bondholders.

(uu) Pending the preparation of definitive bonds, issue certificates, or temporary bonds to the purchaser of bonds.

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418 (vv) Transact the business of the authority and exercise
419 all powers necessarily incidental to the exercise of the general
420 and special powers granted in this act and under any other law.

421 (ww) Do all acts and things necessary or convenient for
422 the promotion of its business and the general welfare of the
423 authority.

424 Section 8. Budget.--The fiscal year for the authority
425 shall be October 1 through September 30 of each year. For each
426 fiscal year after the effective date of this act:

427 (1) Prior to preparation of the annual budget as provided
428 in subsection (2), the authority shall develop an annual
429 proposed budget consisting of the elements described in
430 subsection (2), which shall be presented for a public hearing
431 before the citizens of Alachua County. This public hearing
432 shall be noticed as a budget hearing.

433 (2) Following the public hearing conducted pursuant to
434 subsection (1), the authority shall prepare an annual budget,
435 consisting of an operating revenue/operating expense account,
436 capital outlay account, and capital project account for its
437 operations in the ensuing fiscal year. At the time the
438 authority prepares its annual budget, it shall adopt a
439 resolution determining and finding the estimated amounts to be
440 expended by the authority in the ensuing year in each account,
441 exclusive of any bonds or other indebtedness of the authority,
442 used to acquire, establish, construct, enlarge, operate and
443 maintain the Airport and Airport facilities and other facilities
444 related thereto, or for any other corporate purpose of the
445 authority.

446 (3) The authority may, at any time within a fiscal year,
447 adopt budget amendments.

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448 (4) All anticipated revenues to be derived from the
449 operation of the Airport and Airport facilities shall be
450 included in the budget; provided, however, that any amounts of
451 money, anticipated or actual, including funds in the authority's
452 budget for the preceding fiscal year which remain unencumbered
453 and unexpended from the revenue derived under the budget for the
454 preceding fiscal year, may, by resolution of the authority, be
455 set aside in a separate fund, to be known and described as a
456 "Renewal and Replacement Fund," and accumulated in said fund
457 from year to year for the purpose purchasing real and tangible
458 personal property, and building and constructing permanent
459 improvements, replacements, alterations, buildings, and other
460 structure including, but not limited to, runways, taxi strips
461 and aprons. Such funds may be disbursed from time to time out of
462 the Renewal and Replacement Fund, upon proper resolution of the
463 authority solely for the payment of the cost of purchasing real
464 and tangible personal property, and building and constructing
465 permanent improvements, replacements, alterations, buildings,
466 and other structures, including, but not limited to, runways,
467 taxi strips and aprons.

468 (5) The authority shall adopt budget procedures to
469 establish the direct and indirect costs of operating and
470 maintaining the Airport and Airport facilities, as well as the
471 direct income derived therefrom. However, the budget of the
472 authority shall not include the maintenance and upkeep of
473 navigational aids as performed and funded directly by the
474 Federal Aviation Administration.

475 (6) The city, the county and its other political
476 subdivisions may by loan or grant, fund budget deficits of the
477 authority, and all may guarantee bonds issued by the authority.

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478 Section 9. Relationship between the authority and the
479 city and county.--The authority shall have the power and
480 responsibility to operate the Airport and Airport facilities in
481 a manner consistent with applicable federal, state, county, and
482 city law. The city has no power to operate or maintain the
483 airport and airport facilities. Applicable codes of the city
484 shall apply to the Airport except to the extent that different
485 state or federal requirements are expressly applicable, and
486 except to the extent that the authority or the airport has been
487 made exempt from any requirement of the city by state or federal
488 law. All construction upon the airport shall be subject to
489 inspection by the city on behalf of the state and the city
490 inspectors may ensure compliance with applicable state
491 regulation for such construction in addition to applicable city
492 regulations.

493 Section 10. Title to airport land.--The city may convey
494 title to the land comprising the airport to the authority for no
495 monetary consideration. Nothing in this act shall be construed
496 to impair the obligations of any original agreements with the
497 Federal Government.

498 Section 11. Bonds.--

499 (1) The authority is empowered and authorized to issue
500 revenue or refund bonds. The purpose of the bonds shall be to
501 pay all or any part of the cost for acquisition and development
502 of property by the Authority for the design and construction or
503 reconstruction of any authorized project, for equipment, or for
504 refunding of bonds for the same purpose.

505 (2) Bonds issued under this section shall be authorized by
506 resolution of the authority. Such bonds may be issued in one or
507 more series and shall bear such date or dates, be payable upon
508 demand or mature at such time or times, be in such nomination or

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509 denominations, be in such form, registered or not, with or
510 without coupon, carry such conversion or registration
511 privileges, have such rank or priori be executed in such manner,
512 be payable in such medium of payment, at such place or places,
513 and be subject to such terms of redemption, with or without
514 premium, be secured in such manner, and have such other
515 characteristics as may be provided by such resolution or
516 ordinance or trust indenture or mortgage issued pursuant
517 thereto. Such bonds shall bear interest at such rate or rates
518 allowed by section 215.84, Florida Statutes.

519 (3) The authority shall determine the terms and manner of
520 sale and distribution or other disposition of any and all bonds
521 it may issue and shall have any as all powers necessary or
522 convenient to such disposition.

523 (4) The authority may establish and administer such
524 sinking funds as it deems necessary or convenient for the
525 payment, purchase, or redemption of any outstanding bonded
526 indebtedness of the authority.

527 Section 12. Covenant of the state.--

528 The State of Florida does pledge to, and agree with, the
529 Federal Government and any person, firm or corporation,
530 subscribing to or acquiring the bonds to be issued by the
531 authority for the construction, acquisition, extension,
532 improvement or enlargement of projects, or any part thereof,
533 that the state will not limit or alter the rights hereby vested
534 in the authority until all bonds at any time issued, together
535 with the interest therein, are fully paid and discharged or
536 until provision is made therefore. The State of Florida does
537 further pledge to, and agree with, the Federal Government that
538 in the event that the Federal Government shall construct or
539 contribute any funds for the construction, acquisition,

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extension, improvement or enlargement of said projects, or any
part thereof, the state will not alter or limit the rights and
powers of the authority in any manner which would be
inconsistent with the continued maintenance and operation of the
projects, or any part thereof, or the improvement thereof, or
which would be inconsistent with the due performance of any
agreements between the authority and the Federal Government, and
the authority shall continue to have and may exercise all powers
herein granted, so long as the same may be necessary or
desirable for the carrying out of the purposes of this act and
the purposes of the Federal Government in the construction, or
acquisition or improvement or enlargement of said projects, or
any part thereof.

Section 13. Alcoholic beverage license.--

(1) Notwithstanding any other provision of law, upon
application the Division of Alcoholic Beverages and Tobacco of
the Department of Business and Professional Regulation shall
issue a beverage license as provided under section 561.17,
Florida Statutes, to the authority or other governmental agency
operating the Gainesville-Alachua County Regional Airport.

(a) Application shall be made with the division in the
name of the authority or other governmental agency operating
Gainesville-Alachua County Regional Airport and the license
shall be issued in the name of the applicant.

(b) The beverage license shall authorize the consumption of
alcoholic beverages only on a licensed premises located within
the Gainesville-Alachua County Regional Airport.

(c) The applicant shall pay to the division the applicable
license fee provided in s. 565.02, Florida Statutes.

(2) Any alcoholic beverage license issued in accordance
with this section is the property of the authority or the

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governmental agency operating Gainesville-Alachua County Regional Airport, subject to transfer as provided by this section. Such license may be transferred from time to time to a lessee operating within the Gainesville-Alachua County Regional Airport that meets all applicable qualifications for licensure under the Beverage Law.

(a) The authority or governmental agency operating the Gainesville-Alachua County Regional Airport and an authorized lessee shall make application to the division for the transfer of the license to a lessee, and the application shall be approved by the division if the lessee meets the applicable licensing requirements of the Beverage Law.

(b) Upon termination of a lease, the lessee shall immediately notify the division to transfer the license back to the authority or the governmental agency operating the Gainesville-Alachua County Regional Airport. Upon failure of a lessee to notify the division, the authority or the governmental agency operating Gainesville-Alachua County Regional Airport shall immediately request the division in writing to transfer the license back to the authority or other governmental agency operating the Gainesville-Alachua County Regional Airport. Thereafter, the beverage license may be transferred to any lessee meeting qualification standards for licensure under the Beverage Law.

(c) Upon termination of a lease for any reason or other disqualification, the license shall automatically revert by operation of law to the authority or governmental agency operating the Gainesville-Alachua County Regional Airport.

(3) Each beverage license shall be for the term and subject to the same privileges or renewal as provided in sections 561.26 and 561.27, Florida Statutes. All provisions of

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602 the Beverage Law not inconsistent with this act shall apply to
603 the license.

604 (4) This section does not preclude other persons operating
605 on property of the authority from acquiring an alcoholic
606 beverage license for use on its premises pursuant to general
607 law.

608 Section 14. Purchasing and award of contracts.--
609 Purchasing and award of contracts shall be consistent with the
610 authority's Purchasing Policy and general law.

611 Section 15. Exemption of property from taxation.--The
612 exercise of the powers by the board conferred in this act
613 constitutes the performance of government functions. Facilities
614 owned or operated by the district under the provisions of this
615 act constitute public property. When such facilities are used
616 for governmental purposes, the board shall not be required to
617 pay any taxes or assessments upon any such facilities or parts
618 thereof.

619 Section 16. Discrimination prohibited.--

620 (1) The authority and its lessees, including successors in
621 interest, shall not because of race, color, sex, religion,
622 national origin, age, or disability of any individual refuse to
623 hire, employ, bar, or discharge from employment such individual
624 or to otherwise discriminate against such individual with
625 respect to compensation, hire, tenure, terms, conditions, or
626 privileges of employment.

627 (2) No person on the grounds of race, color, sex,
628 religion, national origin, age, or disability shall be excluded
629 from the participation in, denied the benefits of, or otherwise
630 subjected to discrimination in the use of leased premises of the
631 authority.

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(3) In furnishing services or materials, or in the construction of any improvements, no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination with respect thereto.

(4) This section does not supersede or preempt any state or local laws prohibiting discrimination. The authority, its officers, employees, and agents shall be subject to federal, state and local laws prohibiting discrimination to the extent provided by such laws.

Section 17. Litigation.- Nothing herein shall interfere with any legal action filed by or against the city or predecessor or predecessors of the authority. The authority may become a party in any such action as provided by law. Nothing herein shall impair the right of the city and/or the authority to initiate, pursue, or defend litigation.

Section 18. Severability.- If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are declared severable.

Section 4. Chapters 86-469, 89-433, and 95-457, Laws of Florida, are repealed.

Section 5. This act shall take effect upon becoming a law.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to the Gainesville-Alachua County Regional Airport Authority; codifying, reenacting, amending, and repealing chapters 86-469, 89-433, and 95-457, Laws of Florida, relating to the authority; providing a short